



저작자표시 2.0 대한민국

이용자는 아래의 조건을 따르는 경우에 한하여 자유롭게

- 이 저작물을 복제, 배포, 전송, 전시, 공연 및 방송할 수 있습니다.
- 이차적 저작물을 작성할 수 있습니다.
- 이 저작물을 영리 목적으로 이용할 수 있습니다.

다음과 같은 조건을 따라야 합니다:



저작자표시. 귀하는 원저작자를 표시하여야 합니다.

- 귀하는, 이 저작물의 재이용이나 배포의 경우, 이 저작물에 적용된 이용허락조건을 명확하게 나타내어야 합니다.
- 저작권자로부터 별도의 허가를 받으면 이러한 조건들은 적용되지 않습니다.

저작권법에 따른 이용자의 권리는 위의 내용에 의하여 영향을 받지 않습니다.

이것은 [이용허락규약\(Legal Code\)](#)을 이해하기 쉽게 요약한 것입니다.

[Disclaimer](#) 

정치학석사학위논문

Coincidence of Interest in Agreement Formation

An Analysis of the Israeli-Palestinian Peace Process

이익의 우연적 일치로 인한 합의 형성 :

이스라엘-팔레스타인 협상 과정의 분석

2012년 8월

서울대학교 대학원

정 치 학 과

양 서 진

Coincidence of Interest in Agreement Formation

An Analysis of the Israeli-Palestinian Peace Process

지도교수 백 창 재

이 논문을 정치학석사 학위논문으로 제출함

2012년 4월

서울대학교 대학원

정 치 학 과

양 서 진

양서진의 정치학석사 학위논문을 인준함

2012년 6월

위 원 장 _____ (인)

부위원장 _____ (인)

위 원 _____ (인)

Abstract

The Israeli-Palestinian problem is one of the most long-lasting protracted social conflicts in the world. There have been continued efforts at formulating agreements between the two entities. However, persistent defections and abandonment of agreements continue to undermine the peace process. In spite of continued failures at implementation and follow-through, peace agreements are established again. The purpose of this study is to examine why the two actors keep trying at agreement formation despite lack of trust and disbelief in the peace process. After summarizing the history of the Israeli-Palestinian conflict, the study reasons that it is coincidence of interest that comes to play when two belligerents in a protracted social conflict come together to establish a peace agreement.

In order to illustrate that the Israeli-Palestinian peace process is indeed driven by coincidence of interest, Edward Azar's definition of a protracted social conflict is presented as well as an interdisciplinary framework introduced by Jack Goldsmith and Eric Posner. Among other conflicts, the Israeli-Palestinian problem is considered a protracted social conflict, which is characterized by: duration, fluctuation (in intensity and frequency of interaction), spillover (into all domains of state and society), equilibrating forces, and the absence of a distinct termination. Due to the nature of the conflict, it is implicated that there is not

much incentive for participants to go into peace accords unless there are alternative interests involved.

Goldsmith and Posner argue that since international actors have no moral obligation to comply with international law, four strategic behaviors appropriately explain the “compliant” actions of the actors. The four strategic behaviors are: coincidence of interest, coordination, cooperation, and coercion. Out of the four situations, coincidence of interest involves the least amount of dependence on the opposing player. Hence, because players pay the least attention to the opposing player’s actions in coincidence of interest, actors have complete independent authority over making their decisions. Since Israel and Palestine’s relationship is that of a protracted social conflict (most often depicted as a zero-sum game), despite past failures, the two actors are able to continue entering into repetitive agreements because they act according to coincidence of interest.

Ultimately, the study concludes that Israel and Palestine continue to come to the drawing table, not as a result of coordination, cooperation, or coercion, but because of coincidence of interest. In demonstrating this argument, the study analyzes five major agreements formulated between Israel and Palestine in the 1990s: the Oslo Accords, the Oslo Interim Agreement, the Hebron Protocol, the Wye River Memorandum, and the Sharm el-Sheikh

Memorandum. Ultimately, the act of independently pursuing their own interests aligned the two players to engage in actions that produced the phenomena of two belligerents cooperating. In the case of Israel and Palestine, the strategic situation of coincidence of interest implies that the two actors did not have genuine desires to achieve peace, but that the settlements were merely instruments used to pursue self-interests. In order for a resolution to be viable in the Israeli-Palestinian conflict, this study proposes that the protracted social conflict nature of the problem must be substituted for one that no longer portrays a zero-sum game.

Keywords: Israeli-Palestinian conflict, Oslo peace process, protracted social conflicts, international relations, international law

Student Number: 2010-22705

Table of Contents

Abstract.....	i
Table of Contents	iv
Chapter 1 Introduction.....	1
Chapter 2 Research Framework	4
A. Literature Review.....	4
B. Protracted Social Conflict	16
i. Edward Azar's Definition.....	18
ii. Israeli-Palestinian Conflict	25
C. Goldsmith and Posner's Framework	29
i. Coincidence of interest	32
ii. Coordination	33
iii. Cooperation	35
iv. Coercion.....	37
Chapter 3 History of the Conflict	39
A. The Beginning: Jews and Arabs in Palestine	39
B. Balfour Declaration and the British Mandate	41
C. The First Arab-Israeli War.....	43
D. The June War and the October War.....	44
E. The Lebanon War	52
F. The First Intifada.....	53
Chapter 4 Case Analysis	56
A. Declaration of Principles.....	58
B. Oslo Interim Agreement	64
C. Hebron Protocol	71
D. Wye River Memorandum.....	74
E. Sharm el-Sheikh Memorandum.....	77
Chapter 5 Conclusion	79
Bibliography	83

INTRODUCTION

Peace remains out of reach in many existing battles despite the formulation of numerous agreements to manage and resolve conflict situations. Strife between Pakistan and India, South Korea and North Korea, Israel and Palestine, are few of the many ongoing protracted conflicts. Attempts at multilateral talks and bilateral negotiations to resolve these problems have failed to deliver. We continue to see violence on both sides of the border and agreements being terminated one after another. Nevertheless, leaders end up back at the negotiation table ready to make yet another armistice treaty or redeployment agreement.

In spite of continued defections and abandonment of agreements by either one or both actors, why do the two players continue to formulate peace agreements? Even with a lack of trust in their opponent or disbelief in the possibility of peace, what drives them to keep trying? Is it coercion that drives these actors to concede to superpower demands? Is it genuine cooperation for the sake of peace that gets these warring opponents to shake hands again? Or is it strategic coordination that sparks what seems like an understanding between the two parties. In the case of Israel and Palestine, there have been more agreements and memorandums than one can recount. However, these “peace agreements” have failed to bring about meaningful change. Despite disappointments of the past and no genuine progress down the road to peace, these agreements are repeatedly made. There have been abundant hypotheses addressing the variables that bring competing players together even when there is neither trust nor hope that it will work. This study argues that coincidence of interest plays the most decisive

role when two players come together to sign an agreement in a protracted social conflict situation.

Major issues have existed between the Israelis and the Palestinians from even before the establishment of the State of Israel. Despite countless efforts to find agreeable terms in both the Arab-Israeli conflict as well as the Israeli-Palestinian conflict, problems continue to remain unsolved. Key concerns that remain between Israel and Palestine include those regarding problems of borders, the status of Jerusalem, settlements, refugees, terrorism, and others related to security issues. While certain countries have signed peace treaties with reliable records with Israel—Egypt in 1979 and Jordan in 1994—the Palestinians have failed to find an agreement with Israel that has been sustained and implemented. The key problem about entering one accord after another in this case is that the shortcomings of the past are not entirely accounted for. They typically adopt similar provisions from previous agreements and consequently fail to go beyond the missteps of the past. Not only is this process costly and complex, but continued failures undermine trust and discourages the hope for cooperation in the future. This study will look into the factors that affect competing actors to continue working together although they have little reason to put faith in their opponent again.

In order to demonstrate that it is indeed coincidence of interest that comes into play when an agreement is formed, the characteristics of a protracted social conflict will be introduced along with an interdisciplinary framework of international law and international relations. First, the Israeli-Palestinian conflict is believed to be an intractable conflict, with “deeply rooted beliefs held by each side about itself and about

the adversary.”¹ The conflict’s nature, having to do with national identity and social solidarity strengthens the concerning actors’ will to maintain self-sufficiency and hence seek to make decisions only according to self-interests. Second, the interdisciplinary framework presented by Jack Goldsmith and Eric Posner employs both international law and international relations concepts to present four separate strategic situations that explain actors’ behavioral regularities regarding compliance to international treaties.² Out of the four strategic situations, coincidence of interest highlights the self-sufficiency and self-interest nature of international actors’ behaviors.

This research will take a qualitative approach in analyzing peace agreements between the Israelis and the Palestinians with the purpose of explaining the peace process of the 1990s. By reconceptualizing Goldsmith and Posner’s framework, this study will demonstrate that it is in fact coincidence of interest—not coordination, cooperation or coercion—that led both parties to sign numerous agreements. The study will aim to enhance the understanding of why the Israelis and the Palestinians continue to enter into similar unsuccessful agreements even though they have no reason to trust each other or reestablish failed accords from the past. Essentially, this examination will attempt to give insight into why there has not been real progress made in the peace process between Israel and Palestine.

The main body of this research will be regarding the agreements reached in the

¹ Haggai Kupermintz and Gavriel Salomon, “Lessons to be Learned from Research on Peace Education in the Context of Intractable Conflict,” *Theory into Practice* 44, no. 4, 294; See also Jerome Bruner, *Acts of Meaning*. (Cambridge, MA: Harvard University Press, 1990); and Daniel Bar-Tal, *Shared Beliefs in a Society* (Thousand Oaks: Sage, 2000).

² Jack Goldsmith and Eric Posner, *The Limits of International Law* (New York: Oxford University Press, 2005).

1990s, which include the Oslo Accords (1993)—entailing the Gaza-Jericho Agreement (1994) and the Early Empowerment Agreement (1995)—the Oslo Interim Agreement (1995), the Hebron Protocol (1997), the Wye River Memorandum (1998), and the Sharm el-Sheikh Memorandum (1999). These are some major agreements signed between Israel and Palestine during the 1990s. The content part of the section will rely on historical research and case analysis to form an argument regarding coincidence of interest, which prompts Israel and Palestine to continue engaging in agreements.

Ultimately, this research aims to contribute to the study and amelioration of the Israeli-Palestinian peace process by providing an alternative explanation as to why the two parties keep trying at peace and why conflict prevails in the region despite continued efforts. Moreover, it hopes to add to the knowledge of drawing up more effective and efficient agreements between parties engaged in a protracted social conflict. While international agreements are still necessary in facilitating interaction between two warring players, it must be recognized that expectations regarding the extent to which an accord will improve relations should be lessened. Furthermore, this study hopes to be applicable to researches regarding other ongoing protracted social conflicts such as those between India and Pakistan (the Kashmir region) as well as the Korean Peninsula.

RESEARCH FRAMEWORK

Literature Review

Theoretical concepts from various disciplines have been presented to explain the Middle Eastern phenomenon, particularly with regard to the Israeli-Palestinian

conflict. However, the problem of peace and conflict nevertheless remains at hand. The most popular explanation in political science comes from the realists and the neoliberal institutionalists. Both trends assume that all actors are rational egoist maximizers. Realists consider power to be the master explanatory variable in international relations.³ Therefore, they believe that power balancing is the product of actors' aim to survive. Inevitably, coercion is considered to be one type of diffusion mechanism, where a dominant power imposes its values on lesser groups. Their belief that power will determine bargaining outcomes does not quite hold explanatory power in the Middle East. Despite American mediation and sanctions and offensive aggressions by either the Israelis or the Palestinians, conflict remains eminent in the region. Although realism is the dominant school of thought in international relations, their arguments fail to explicate the continued failure of peace agreements and the persistent attempts to sign invariable accords. In fact, international law—treaties, in this case—is considered epiphenomenal in realist thought.

Even neoliberal institutionalism, which draws on microeconomic theory, rational choice theory, and game theory to layout its theoretical foundation, falls short in explaining why the Israelis and the Palestinians act the way they do.⁴ Generally, this

³ See Kenneth Waltz, *Theory of International Politics* (Reading: Addison-Wesley, 1979); Robert Gilpin, *War and Change in World Politics* (New York: Cambridge University Press, 1983); Barry Posen, "The Security Dilemma and Ethnic Conflict," *Survival* 35, no. 1 (1993): 27-47; Michael Mastanduno, "Preserving the Unipolar Moment: Realist Theories and U.S. Grand Strategy after the Cold War," *International Security* 21, no. 4 (1997): 49-88.

⁴ See Stephen Krasner, *International Regimes* (Ithaca: Cornell University Press, 1983); Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984); Douglass North, *Institutions, Institutional Change and Economic Performance* (New York: Cambridge University Press, 1990); Ronald Coase, "The Problem of Social Cost," *Journal of Law and Economics* 3, no.

strain of theorists argues that powerful incentives to cooperate on arms control and disarmament supposedly lead actors to sign agreements. This claim is quite persuasive, except for the fact that if such ‘powerful incentives’ are the gains of entering agreements, why do both actors fail to ensure the realization of the goal? Therefore, in the case of Israel and Palestine, the neoliberal institutionalist reasoning falls short of explaining the repeated act of entering and defecting then reestablishing agreements over again.

Neoliberal institutionalism also claims that institutions rising from the repeated exchanges of egoists can both constrain behavior and produce opportunities for cooperation. The advantage of institutions, such as international agreements, is that it provides greater efficiency in decreasing the transaction costs between actors; hence, reducing the incentives to cheat. In particular, those who consider repetitive prisoner’s dilemma as the answer to the problem believe that the interests of all parties can be realized through ‘principled negotiations,’ which results in an agreement that is ultimately beneficial to all. Again, such procedure decreases the possibility of dissatisfaction and so discourages defections from occurring.

A Peace process should produce a “good negotiated settlement,” where “parties look beneath their positions at the underlying interests of all involved parties, brainstorm options to meet their mutual interests, and then decide upon options that are mutually advantageous.”⁵ The fact that all parties have a stake in the agreement ensures its

1 (1960): 1-44; Oliver Williamson, “Transaction-Cost Economics: The Governance of Contractual Relations,” *Journal of Law and Economics* 22, no. 2 (1979): 233-261; and Armen Alchian and Harold Demsetz, “Production, Information Costs, and Economic Organization,” *American Economic Review* 62, no. 5 (1972): 777-795.

⁵ Daniel L. Shapiro, “Supplemental Joint Brainstorming: Navigating Past the Perils of

implementation. Furthermore, because common grounds have been found between competitors, participants will realize that they are capable of reaching an understanding. This will help build trust between the warring parties, thus improving their relations and allowing for more agreements to be attained in the future.⁶ Essentially, through a process of learning and trust-building, a pattern of cooperation should replace the nature of the relationship, which was formerly characterized by conflict. However, the collapse of one agreement after another reveals that the neoliberal institutionalists have failed to correctly explain the phenomenon at hand. Despite having formed an agreement supposedly based on negotiations and shared understandings, Israel and Palestine did not ensure its implementation, let alone build trust to improve relations for future arrangements. Nevertheless, the two warring parties met again—with an abysmal track record at implementation and without built trust—to form yet another similar agreement.

This paper does not intend to refute realism and neoliberal institutionalism claims to come to its conclusion. To some degree, it acknowledges that “cooperation” may take place, but disagrees with the ways, means and intentions claimed by the neoliberal institutionalists and the realists. Also, the study does partially accept that agreements are formed because of actors’ intentions to check and balance their opponents. However, because these perspectives do not suffice in explaining the Israeli-Palestinian peace process developments, this study attempts to remedy such shortcomings by putting forward an alternative hypothesis.

Traditional Bargaining,” *Negotiation Journal* 16, no. 4 (2000): 409-10.

⁶ See Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (New York: Penguin Books, 1983); and Lawrence Susskind and Jeffrey Cruikshank, *Breaking the Impasse* (New York: Basic Books, 1998).

Multiple approaches have also been taken to analyze the peace and conflict relationship of the Israeli-Palestinian problem. Most scholars deal with the domestic factors that result in the signing of a particular agreement or the causes that lead to the failure of such accords. Others deal with the influences these agreements had on internal politics and vice-versa. Most studies focus on a single incident or accord to emphasize the ups and downs of the Israeli-Palestinian relationship. There are also those who study the nature of the conflict itself. However, not many look into the nature of the peace agreements. The rest are mainly narrative analyses of particular events that merely assess the situation. One thing these studies have in common is their central question of what went wrong in the peace process between the Israeli and the Palestinians and why the agreements failed to be sufficiently implemented.

Of those who blame the leadership or elites for the failure of an agreement, most scholars' analyses focus on the party leaders. Their studies refer to the leadership attributes of a particular individual or the role the leader played in the whole peace process. There are also studies that indicate internal divides that exist domestically either within the Israeli camp or the Palestinian camp. To this group, it is this internal strife that ultimately led to the failure of the peace efforts.

In identifying the causes of the Oslo process' collapse, Ron Pundak and Yezid Sayigh provide mirroring accounts of Camp David (2000). Although both scholars emphasize the failures of the party leaders' abilities to seize the opportunity for peace at Camp David, Pundak tends to put more burdens on Ehud Barak whereas Sayigh comes down hard on Yasser Arafat. Pundak claims that Barak's attitude and behavior damaged

whatever belief the Palestinians had in Israel's willingness to make territorial concessions.⁷ In his book *Manual for a Wounded Dove*, Yossi Beilin puts blame on Barak for the faulty implementation of the Oslo accords. However, unlike Pundak, Beilin divides responsibility for the failure between the Palestinians and the Israeli left wing.⁸

On the other hand, Sayigh asserts that it is because of Arafat that the peace process became suspended.⁹ Sayigh states, "contrary to the Israeli account, [Arafat's] behavior since the start of the *intifada*¹⁰ has reflected not the existence of a prior strategy based on the use of force, but the *absence of any strategy*."¹¹ Ultimately, Sayigh's argument is that the Palestinians suffered because of Arafat's strategic misjudgment. Along similar lines, Gerald M. Steinberg identifies that there were fundamental weaknesses in the negotiating process itself and that there was an "absence of ripeness at the levels of both the elite leadership and the societies."¹² Nevertheless, as was with Sayigh, there is more blame on Arafat than on Barak. Although scholars on both sides offer detailed accounts of what transpired at Camp David and the events that followed up to the summit, these studies merely end up being a blame game. They are

⁷ Ron Pundak, "From Oslo to Taba: What Went Wrong?" *Survival* 43, no. 3 (2001): 427-460.

⁸ Yossi Beilin, *Madrich le-Yona Petzu'a* [Manual for a Wounded Dove] (Tel Aviv: Yedioth Ahronot, 2001).

⁹ Yezid Sayigh, "Arafat and the Anatomy of Revolt," *Survival* 43, no. 3 (2001): 47-60.

¹⁰ *Intifada* is an Arabic word that can be translated as popular resistance to oppression. This quote is referring to the Palestinian uprising against Israeli occupation from the late 1980s to early 1990s.

¹¹ Sayigh, "Autonomy of Revolt," 47.

¹² Gerald Steinberg, *Unripeness and Conflict Management: Re-Examining the Oslo Process and its Lessons*, Occasional Paper no. 4 (Ramat Gan: Center for Conflict Management, Bar Ilan University, 2002).

biased and prejudiced in treating the events. Despite being able to elaborate on the failure of the leadership to seize the opportunity for an effective break-through, the authors fall short in considering other variables that may have existed. For instance, there may have been constraints on the leaders—whether intrafactional or interfactional—that resulted in limited space for maneuver.

Internal divides within Israel and Palestine accounts for a majority of the studies that holds responsible domestic politics for the failure of a particular agreement. Louis Kriesberg well-demonstrates this claim that the agreements were likely to have less impact because of internal rifts.¹³ For instance, he anticipated that “tensions based on differences between the ultra-orthodox and more secular Jews” within Israel will “assume greater prominence” with regard to security issues. Concerning Palestine, he foretold that “the salience of issues dividing Palestinians is likely to increase” as well.¹⁴ In the same line of thought, Khalil Shikaki also puts weight on the argument that the peace process has been stalled because the Palestinians are internally divided.¹⁵ As clear as his title, “Palestinians Divided” indicates, Shikaki focuses on two divides within Palestine that has affected its peace process with Israel. First, the divide between the old and young within the nationalist movement is said to have constrained the Palestinian Authority’s (PA) leadership abilities. Second, the decline of the nationalists’ power relative to the Islamists, such as Hamas, has convinced a number of Palestinians that aggression may work more effectively against the Israelis as opposed to peace talks.

¹³ Louis Kriesberg, “Negotiating the Partition of Palestine and Evolving Israeli-Palestinian Relations,” *Brown Journal of World Affairs* 7 (2000): 63-80.

¹⁴ *Ibid.*, 75.

¹⁵ Khalil Shikaki, “Palestinians Divided,” *Foreign Affairs* 81, no. 1 (2002): 89-105.

Shikaki believes that “the second intifada has convinced many Palestinians that violence is more effective than negotiation.”¹⁶

All in all, scholars who blame domestic strife as the cause of faulty implementation tend to lean towards the assumption that agreements are bound to fail because both groups are internally divided to begin with. However, this explanation fails to capture the reasons as to why, since the Palestinians seem to favor violence over negotiation, they return to the tables to drum up yet another peace accord. Moreover, existing literature mentioned so far tend to be analyses that are actor-centered. However, this study will attempt to adopt a structure-centered approach to remedy this shortcoming. In other words, the aim will be to look into the nature of the agreements and the conflicts themselves to provide an explanation for the problem at hand.

In regard to violence being a cause of peace process failure, Wendy Pearlman identifies what she calls “spoilers,” as the main instigators. Spoilers are “those who use violence or other means to undermine negotiations in the expectation that a settlement will threaten their power of interests.”¹⁷ In other words, Pearlman agrees with Shikaki in that competing factions—particularly in Palestine—participate in damaging the peace process in order to gain opportunity to advance their struggle for political dominance.¹⁸ The use of violence in the form of terrorism and uprisings (also known as *intifada*) are key examples of this instance. Therefore, interfactional and intrafactional factors both

¹⁶ Shikaki, “Palestinians Divided,” 92.

¹⁷ Wendy Pearlman, “Spoiling Inside and Out: Internal Political Contestation and the Middle East Peace Process,” *International Security* 33, no. 3 (2009): 79-109.

¹⁸ See also Edward Newman and Oliver Richmond eds., *Challenges to Peacebuilding: Managing Spoilers during Conflict Resolution* (Tokyo: United Nations University Press, 2006).

play a role in shaping negotiation processes in the course of and in the aftermath of peace agreements. However, these arguments fall short in providing an answer to why agreements continue to be made although they have recently failed at implementing them. Opposing factions have existed in the past as well, but that did not stop the initial agreements from being signed. These variables explain why agreements have failed in the past, but they do not answer the question as to why the two parties keep seeking to form agreements despite violence having not subsided. Even after the failure of a particular settlement violence has not stopped the next agreement from being signed. Another scholar who credits violence as one of the main obstacles to peace talks being hindered is Deborah Sontag. Furthermore, Sontag claims that the most important reason deep understanding was not created between the two camps even with continued peace talks was because the fundamental problems—the fate of Jerusalem, of Palestinian refugees, of Jewish settlements, future borders, among others—were not discussed.

There are also those who claim that the peace agreements between Israel and Palestine were mere formalities. Agha and Malley suggest that the Camp David summit between Barak, Arafat, and President Bill Clinton in 2000 was a symbolic recreation of the 1978 summit between Egyptian President Anwar El Sadat, Prime Minister Menachem Begin of Israel and President Jimmy Carter.¹⁹ Ultimately, their argument is that the 2000 Camp David Summit failed because it was untimely and poorly handled. A significant portion of the study argues that the U.S. was partly to blame for the collapse

¹⁹ Hussein Agha and Robert Malley, “Camp David: The Tragedy of Errors,” *New York Review of Books* 9 August (2001): 59-64.

of the peace process, because they did not behave like a fair middleman.

Similarly, Ian Lustick argues that the Oslo Accords were ceremoniously signed and implementations were delayed time and again, because the agreements were not signed between *states*.²⁰ In this instance, Lustick's claim is that the agreements were not taken as seriously, because actors were able to reopen the case to renegotiate, repeatedly. In other words, the agreement lost strength in the fact that it was signed between two groups, not states.²¹ As with Kriesberg and Shikaki, Lustick also highlights the role of domestic opposition to the peace process as an obstacle to its implementation. He maintains that the opponents of the peace process within Israel were able to undermine the agreements by treating the documents merely as legal texts and not as a 'political compromise' with the Palestinians. However, as was the case with competing factions, violence between the two actors has existed from before, during and even after agreements were signed. Therefore, they are not appropriate justifiers for why peace agreements between the Israelis and the Palestinians are repeatedly attempted at without faith in their opponent, let alone the process itself.

Although there is also international law literature regarding the failure of major peace agreements between Israel and Palestine, there is a lack of studies that are interdisciplinary to both international law and international relations. Interdisciplinary studies on this subject are usually on the nature of the conflict itself or narratives that

²⁰ Ian Lustick, "The Oslo Agreement as an Obstacle to Peace," *Journal of Palestine Studies* 27, no. 1 (1997): 61-66.

²¹ This point is also mentioned by Rogers Brubaker and David Laitin, who focus on intergroup conflicts as opposed to interstate conflicts. Intergroup conflicts involve non-uniform actors that are neither sovereign nor territorially defined; See Rogers Brubaker and David Laitin, "Ethnic and Nationalist Violence," *Annual Review of Sociology* 24 (1998): 423-452.

analyze and assess the situation. The importance of interdisciplinary research is emphasized by Anne-Marie Slaughter Burley,²² who states that “the postulates developed by political scientists concerning patterns and regularities in state behavior must afford a foundation and framework for legal efforts to regulate that behavior.”²³ Slaughter Burley recognizes that political scientists have paid little attention to relate the two disciplines, instead settling for “increasingly abstract ‘systemic’ theories of state behavior.”²⁴

Since international law literature is more narrative and factual, they fall short in providing answers to the causes and consequences of particular phenomena. For instance, in *The Oslo Accords: International Law and the Israeli-Palestinian Peace Agreements*, Geoffrey R. Watson mainly examines the legal details, meanings and interpretations of the agreements established in the 1990s.²⁵ In presenting a comprehensive legal study of the agreements, Watson tends to focus on textual meanings and interpretations regarding the process of the accords. He also evaluates the compliance, or lack thereof, of the Israelis and the Palestinians concerning the provisions presented in the agreements. However, Watson’s narrow framework of interpreting the texts in a legal point of view has limitations in providing the readers with a political cause or implication resulting from the rise and fall of the agreements.

²² Anne-Marie Slaughter Burley, “International Law and International Relations Theory: A Dual Agenda,” *The American Journal of International Law* 87, no. 2 (1993): 205-239; See also Louis Henkin, *How Nations Behave: Law and Foreign Policy*, Published for the Council on Foreign Relations. (New York: Columbia University Press, 1979).

²³ Slaughter Burley, “A Dual Agenda,” 205.

²⁴ *Ibid.*, 206.

²⁵ Geoffrey R. Watson, *The Oslo Accords: International Law and the Israeli-Palestinian Peace Agreements* (Oxford, Oxford University Press: 2000).

Therefore, there is a need to combine the fields of international law and international relations to explicate the Israeli-Palestinian peace problem in more depth. Accordingly, this paper attempts to provide a bridge between international relations and international law in regard to the Israeli-Palestinian peace process.

There is copious literature having to do with the domestic effects and influences of the Israeli-Palestinian conflict—particularly with regard to mutual agreements. Most refer to the leadership aspect of the failure of a specific settlement. Others have to do with the division of internal sentiments whether they are regarding parties, groups, factions, or the public. There are also international law studies that analyze the legal documents itself. However, they collectively fail to highlight the systemic aspect of the agreements. Realists typically argue that it is due to constraints that were inherent in the peace process from the beginning that led to failure. They argue that conflict was not ripe enough for a resolution to be made. Unfortunately, they do not provide further indications that prove the ripeness of the conflict concerning the agreements that came afterwards. Or if they do, the evidence of ripeness provided does not hold true once the agreements fail. Neoliberal institutionalists on the other hand often point out that failure of implementation was the main reason peace agreements were unsuccessful. They emphasize that both parties lacked the necessary will and skill to make the peace process work. However, they too fail to provide a solution to go beyond such limitations.

While the study of international law deals with legal documents such as accords and peace agreements (the result of a particular event), international relations

concentrates on providing explanations for repeated behavioral occurrences. In attempting to reconceptualize international law in relations to international relations, this research differs itself from others that study the Israeli-Palestinian conflict. This investigation aims to provide an explanation concerning the behavioral patterns of the Israeli-Palestinian peace process with a theoretical foundation in international relations and legal framework that regulates behavior. It will focus on explaining the general principles of behavior that govern Israeli-Palestinian relations, rather than explicating the causes and reasons of specific actions.

The main argument of this study is that in protracted social conflicts, such as the Israeli-Palestinian conflict, agreements are formulated as a result of coincidence of interests. By focusing on the nature of the agreements and the ulterior interests that led to the formulation of peace accords, this study will provide insight into the patterns and regularities seen in the behaviors of the Israelis and the Palestinians. In advancing on the caveats of past international law, international politics and peace and conflict academics, this study will investigate what drives actors to continue trying at cooperation even if they have persisted to fail implementation and follow-through with agreements in the past. The next section will elaborate on the characteristics of a protracted social conflict. Then, the four strategic situations proposed by Goldsmith and Posner will be presented.

Protracted Social Conflict

Along with several other conflict situations around the world, the Israeli-Palestinian conflict is identified as an intractable conflict, also known as a protracted social conflict. "Protracted social conflicts are hostile interactions which extend over

long periods of time with sporadic outbreaks of open warfare fluctuating in frequency and intensity.”²⁶ The overall understanding of the Israeli-Palestinian conflict is aided by the theory of protracted social conflicts, which emphasizes the underlying social causes that can eventually lead to conflict management. Because such conflicts deal with whole societies where the scope of national identity and social solidarity are at risk, stakes are very high. The zero-sum disposition of the conflict affects the players to act accordingly to self-interest, rather than in consideration of others. The sensitivity surrounding the conflict is summarized by Shlomo Ben-Ami:

For it is not just a collision over territory, or a banal border dispute; it is a clash of rights and memory. The longing for the same landscapes, the mutually exclusive claims of ownership of land and religious sites and symbols, and the ethos of dispossession and refugeeism for which the two parties claim a monopoly make their national narratives practically irreconcilable.²⁷

Ben-Ami also notes that a political breakthrough, such as the Oslo peace process, in protracted conflicts cannot be produced merely by futile diplomatic procedures.

Consistent with the basic need for ‘psychological distinctiveness’ proposed by social identity theory,²⁸ maintaining their respective particularistic identities is vital to the existence of these national groups. Although modern conflicts are often framed as conflicts over “material interests, such as commercial advantages or resources acquisition,” they are more fundamentally about “developmental needs expressed in

²⁶ Edward Azar, Paul Jureidini, and Ronald McLaurin, “Protracted Social Conflict: Theory and Practice in the Middle East,” *Journal of Palestine Studies* 29, no. 1 (1978), 50.

²⁷ Shlomo Ben-Ami, *Scars of War, Wounds of Peace* (New York: Oxford University Press, 2006), 201.

²⁸ See H. Tajfel and J. C. Turner, “The Social Identity Theory of Intergroup Behavior,” in *Psychology of Intergroup Relations*, edited by S. Worchel and W. G. Austin (Chicago: Nelson-Hall, 1986).

terms of cultural values, human rights and security.”²⁹ Essentially, the conflict is viewed as a zero-sum game not only with respect to territory issues, but also with regard to the problem of national identity and existence. Herbert C. Kelman suggests that each side takes up the belief that “only one can be a nation: Either we are a nation or they are. *They* can acquire national identity and rights only at the expense of *our* identity and rights.”³⁰

Intractable conflicts are most often identified as “characterized by being violent, perceived as a zero sum game, irreconcilable, central, and total in a society’s life.”³¹ For matters of clarification, this study will take on the definition provided by Azar, who name five main features of a protracted social conflict. The five characteristics of protracted conflicts as identified by Azar and his associates are: duration, fluctuation, spillover, equilibrating forces, and an absence of a distinct termination. These five characteristics will be dealt with in more detail later on.

Edward Azar’s Definition

The concept of protracted social conflicts is introduced by Azar with an elaboration of the ‘genesis,’ ‘dynamics’ and ‘outcomes’ of these conflicts. In identifying four clusters of variables that are preconditions for a protracted social conflict, Azar distinguishes the patterns of causal relations that give rise to specific protracted conflicts. The four variables of the genesis component are: communal content, needs, governance

²⁹ Azar, *Protracted Social Conflict*, 2.

³⁰ Herbert C. Kelman, “The Political Psychology of the Israeli-Palestinian Conflict: How Can We Overcome the Barriers to a Negotiated Settlement?” *Political Psychology* 8, no. 3 (1987): 354.

³¹ Nadim N. Rouhana and Daniel Bar-Tal, “Psychological Dynamics of Intractable Ethnonational Conflicts: The Israeli-Palestinian Case,” *American Psychologist* 53, no. 7 (1998): 761-770.

and the role of the state, and international linkages.

First, communal content is the most significant factor in a protracted social conflict. Here, the term *community* refers to a politicized group made up of members who share the same ethnicity, religion, language or other cultural ‘identity’ characteristics. A society that is characterized by a multicommunal composition is more likely to see a protracted social conflict arise. Often times there are two factors that bring about politically active multicommunal societies. The first is colonial legacy. Due to the principle of ‘divide and rule’ employed by the colonialists, various communal groups became artificially incorporated into a single boundary. Examples of such instances would be Lebanon, Israel and Malaysia. Other instances exist where a nation became divided into two or more states, such as Korea. The second factor that is responsible for the rise of politically active multicommunal societies is a “historical pattern of rivalry and contest among communal actors.”³² In other words, these societies are characterized by disarticulation. There are other scholars who also emphasize the importance of history in sustaining the persistence of a conflict.³³ Because conflicting communities are forcefully integrated or incorporated into a single entity, greater fragmentation is produced between the actors, which inevitably causes protracted social conflict.

The second variable that is a precondition for protracted social conflict is

³² Azar, *Protracted Social Conflict*, 7.

³³ See Patrick Devine-Wright, “History and Identity in Northern Ireland: An Exploratory Investigation of the Role of Historical Commemorations in the Contexts of Intergroup Conflict,” *Peace and Conflict: Journal of Peace Psychology* 7, no. 4 (2001): 297-316; and Michael Roe and Ed Cairns, eds. *The Role of Memory in Ethnic Conflict* (New York: Palgrave Macmillan, 2003).

human needs. Since a community is an identity group, its survival is contingent upon the satisfaction of needs. These needs are identified as: acceptance needs, access needs, and security needs. These physical needs must be fulfilled through the formation of identity groups. In Azar's words:

[The] deprivation of physical needs and denial of access are rooted in the refusal to recognize or accept the communal *identity* of other groups. Formation and acceptance of identity thus also may be understood as a basic developmental need, with collective identity manifest in terms of cultural values, images, customs, language, religion, and racial heritage.³⁴

Furthermore, the level of satisfaction rests on whether or not communal groups have access to social institutions. By social institutions, Azar means effective participation in society, which is considered a developmental need that cannot be negotiated. This is because the overall distribution of political power determines the degree of participation available in economic decision-making. Overall, such access to political and economic power rests on the level of acceptance of each community. This cluster of variables can be seen as causes of any protracted social conflict, because the denial of needs fosters a greater sense of cohesion among 'victimized' groups that is sufficient to promote collective violence and further protract the conflict.

The third cluster of variables is governance and the role of the state. Since "the level of satisfaction or deprivation of basic needs is generally influenced by the intervening or mediating role of the state,"³⁵ it is also important to recognize the issue of legitimacy as well as the policy capacity of the state (or governing institution). The

³⁴ Azar, *Protracted Social Conflict*, 9.

³⁵ *Ibid.*, 10.

former represents the linkage between needs and protracted social conflict. More specifically, issues of legitimacy would indicate the regime type and the level of legitimacy of the governing system. The latter refers to governance and the effectiveness of the governing (in most cases, the state). The governing must be able to respond to, and meet the needs of various constituents. However, in most protracted social conflict environments, the authority structure obstruct the governing's ability to make such patterns of decision-making.

Lastly, in this model, it is recognized that the formation of institutions and their influence on the role of the governing are influenced by its relationship with the international system.³⁶ There are two models of such international linkages: economic dependency and political and military patron-client relationships. The first model focuses on the economic dependency a communal group has within the international economic system, which not only alters the pattern of economic development within the society, but also impedes the satisfaction of security needs by limiting the autonomy of the state. The second model focuses on the political and military patron-client relationship a communal groups has with strong states. All in all, the genesis component of a protracted social conflict identifies that these sorts of conflicts occur when "communities are deprived of satisfaction of their basic needs on the basis of their communal identity."³⁷ This deprivation is the result of a complex causal chain that is affected by the aforementioned four clusters of variables.

³⁶ Azar, *Protracted Social Conflict*, 11.

³⁷ Ibid., 12.

The next component discussed by Azar is ‘process dynamics.’ This component deals with the triggers that are factors responsible for the initiation of overt conflicts. This section includes three clusters of variables that work interactively to result in the *activation* of protracted social conflicts. The three factors are: communal actions and strategies, state actions and strategies, and built-in properties of a conflict. Communal actions and strategies imply that the collective recognition and mobilization inevitably leads to collective protests, which is in turn counteracted by some sort of suppression by the opponent group. As tension increases between the two actors, events begin to affect a broad range of issues other than the occurrence itself. This spill-over effect increases the force in which communal mobilization strives to “formulate more diverse strategies and tactics, which may involve civil disobedience, guerilla warfare and secessionist movements.”³⁸ For instance, because the balance of power is generally in favor of one group than the other (most often in favor of the state versus the communal group) the weaker actor may seek external assistance from its neighbors. Moreover, the spill-over of a certain event or events into various other aspects of life will make the conflict more deep-rooted in both societies.

The next cluster of variables that activates a protracted conflict are state actions and strategies. The key to state actions and strategies is whether or not the state (or the more advantaged party) has accommodated communal grievances and has attempted to improve the satisfaction of communal needs. However, since any accommodation or “concession” may seem as a sign of defeat, accommodation strategies are seldom

³⁸ Azar, *Protracted Social Conflict*, 14.

attempted. According to Azar, this is a consequence of the norm ‘winner-takes-all’ that exists in multicommunal societies. Put differently, actors in these situations view outcomes as all-or-nothing. In place of strategies that require accommodation or concessions to its opponents, actors generally employ strategies of coercive repression (containment) or instrumental co-option (such as external assistance).

Built-in mechanisms of a conflict are the last cluster of variables that affects the activation of protracted conflicts. Specifically, built-in mechanisms would mean “the history of experience in the conflict and the nature of communication among hostile contestants.”³⁹ These factors affect the fears and belief systems of each group, which plays a role in shaping the perceptions and motivations behind the behavior of both parties. Once reciprocal negative images are attributed to its opponent, aggression between the two actors is perpetuated and protracted social conflict becomes more likely to be solidified. Consequently, hostility produces yet more hostility and the process eventually becomes institutionalized.⁴⁰ In these situations, proposals for political solutions are perceived as mere mechanisms for gaining relative advantage rather than for genuine conflict resolution.

The final component of Azar’s protracted conflict is ‘outcome analysis.’ Far worse than a zero-sum outcome where the winner and loser can be distinguished, Azar considers protracted social conflicts to be negative-summed, because of their innate behavioral properties of protractedness, fluctuation, and actor and issue spill-over.

³⁹ Azar, *Protracted Social Conflict*, 15.

⁴⁰ For more detail, see Ted Gurr, *Why Men Rebel* (Princeton: Princeton University Press, 1970).

Moreover, since both actors tend to be deeply victimized in the process, an abrupt termination point does not exist in the conflict.

The outcome analysis component entails four conditions that are generated by protracted social conflicts: deterioration of physical security, institutional deformity, psychological ossification, and increased dependency and cliency. These factors also further reinforce the protractedness of the conflict. The first of Azar's outcome analysis is deterioration of physical security, which implies the destruction of physical and social infrastructures due to protracted conflicts. Second, institutional deformity is caused by the paralysis of political institutions and the destruction of the broader social fabric (i.e. solidified communal cleavages and poor prospects for cooperative interaction and nation-building). Such damage fundamentally brings about the degeneration of socio-economic and political institutions. Psychological ossification is the third condition generated by and which reinforces protracted social conflicts. Because both groups become accustomed to cynicism and war culture, meaningful interactions become diminished and fear and hostilities become solidified in a vicious cycle. Lastly, increased dependency and cliency is also caused by protracted social conflicts. In these cases, a patron-client relationship would exist between one of the communal actors caught up in the protracted conflict and an external actor.

Overall, a protracted social conflict is identifiable by five major characteristics. Again, the five characteristics of protracted social conflicts are: duration, fluctuation, spillover, equilibrating forces, and an absence of a distinct point of termination. The duration—otherwise known as protractedness—of a conflict is the first characteristic.

Next, the fluctuation of the conflict in the intensity and frequency of interactions is also a significant factor of a protracted social conflict. These conflicts also tend to ‘spillover’ into all domains of society, hence fostering a war culture or making the problem a central matter in various areas of life. Whether in conflict or cooperation, protracted social conflicts have strong equilibrating forces that constrain interactions to remain relatively close to the status quo. The last characteristic of a protracted social conflict is the absence of a distinct termination. Given that these characteristics are sufficient in identifying a protracted social conflict, the Arab-Israeli conflict—more precisely the Israeli-Palestinian conflict—is surely a protracted social conflict.

Israeli-Palestinian Conflict

The Israeli-Palestinian ethnic conflict has lasted for no less than 60 to 80 years. There may be some debate over when the beginning of the modern conflict between the Israelis and the Palestinians started. For instance, some believe that the conflict began in the 1930s when the British recommended a partition of the land with power from the British Mandate for Palestine,⁴¹ while others believe the beginning to be in 1948 when the State of Israel was established. Nevertheless, 60 to 80 years of conflict is surely considered to meet the temporal prerequisite of “protractedness.”

Second, during the 60 to 80 years time, conflict has not been continuous. Rather, there were times of relative calmness as well. Particularly with the involvement

⁴¹ The British Mandate for Palestine was a legal commission for the administration of Palestine, which came into effect on 29 September 1923. The mandate formalized British rule in the southern part of Ottoman Syria, formerly a part of the now defunct Ottoman Empire. According to the document, there were to be two distinct British protectorates in the area – Palestine, as a home for the Jewish people under direct British rule, and Transjordan, semi-autonomously governed by an Emirate family called the Hashemite.

of external actors such as Egypt, Jordan, and the U.S., relations fluctuated both bilaterally and multilaterally. There have been periods when peace was almost within reach. There have also been periods when war and terror was at large. Taking into account both periods, the Israeli-Palestinian conflict meets the criterion of fluctuation—in intensity and frequency of interaction—that typifies a protracted social conflict.

The third characteristic that defines a protracted conflict is spillover effect. The spillover of conflict into all domains, particularly in the politics of the conflicting societies shows that the spillover of the conflict has been singularly pronounced. The spillover not only affects interest group formations, but also influences the formation of fractionations in either side of the conflict. It also promotes a more hard-line war culture in both communities. Consequently, nationalism and social identity have become underlying characteristics of the Israeli-Palestinian conflict. It is vital to keep in mind that because nationalism and social identity are fundamental issues involved in the determination of a conflict, a zero-sum, or in Azar's case negative-sum game exists. Essentially, it is the "ideological basis of the conflict [that] leads to an increasingly complex definition of 'self' and 'enemy,'"⁴² that continues to advance the conflict in this direction. The conflict is then no longer simply an interest-based conflict, but also an identity-based conflict.⁴³ Put simply, the spillover of the Israeli-Palestinian conflict has substantial significance, because it is not merely a fight for territory and resources, but a conflict based on ethnicity and national identity.

⁴² Azar, Jureidini, and McLaurin, "Protracted Social Conflict," 58.

⁴³ For more, see Jay Rothman and Marie L. Olson, "From Interests to Identities: Towards a New Emphasis in Interactive Conflict Resolution," *Journal of Peace Research* 38, no. 3 (2001): 289-305.

Strong equilibrating forces is the fourth characteristic of a protracted social conflict identified by Azar. These equilibrating forces constrain interactions to remain close to the existing status quo. They attempt to force interaction trends back to what is considered the status quo position, if and when the conflict goes well beyond its boundaries whether it is into conflict or into cooperation. For instance, when frustrations between the Israelis and the Palestinians result in an outbreak of hostilities that level beyond the existing range of status quo, external actors such as Egypt or America (or even external factors such as costs for maintaining high-intensity operations) works to force interactions back to the former status quo position. Another situation is when cooperation levels between the two conflicting parties go beyond the established critical threshold. In these situations, various Arab countries, Islamist factions, Israeli opposing parties, or other competing groups resist and hence force interaction levels to decrease again. Because there are groups that prefer to maintain the status quo regarding the Israeli-Palestinian conflict, internally and externally, the conflict has lasted as long as it has and is as intractable and durable as it is.

The last characteristic in a protracted social conflict is that “the termination is gradual rather than sudden or distinct.”⁴⁴ As an ongoing current conflict, the Israeli-Palestinian problem fits the framework for the last four criteria of a protracted social conflict. However, since it is still ongoing, it can only be speculated whether or not the termination will be gradual or distinct. Nevertheless, additional experiences point toward the likelihood that the Israeli-Palestinian conflict will be, if termination is

⁴⁴ Azar, Jureidini, McLaurin, “Protracted Social Conflict,” 56.

possible, in a gradual manner. For one, the ideological basis of the conflict implies that a potential termination of the conflict would mean there would be powerful identity crises in multiple scales—personal, subcultural, national, and perhaps regional as well. In other words, due to its zero-sum nature, the resolution or termination of the conflict would ultimately result in an identity crisis at multiple levels. Therefore, it is only reasonable that a potential termination be brought about gradually.

Based on the abovementioned criteria and analysis, the Israeli-Palestinian conflict is fit to be placed into the framework of a protracted social conflict. Since there is a norm of winner-takes-all in a protracted social conflict, it is most likely that the behaviors of the actors depend not simply on circumstantial factors, but more significantly on self-considerations. In other words, the determining factor in decision-making processes of actor behavior in protracted social conflicts depends almost entirely on *self-interest* of the concerning actors. Consequently, coincidence of interest is most likely to come into effect in peace agreement situations in a protracted social conflict, because it dictates the least dependence on the opposing player.

The characteristics of a protracted social conflict implicate that there is not much incentive for participants to get into peace accords unless there are alternative self-interests involved; peace agreements for the sake of peace, *per se*, is not of ultimate significance to the signatories. Furthermore, because of the ideological basis of the conflict, tangible issues are likely to become associated with greater symbolic

significance and thus influence the escalation of the conflict.⁴⁵ In addition, the distorted definition of the ‘self’ and the ‘enemy’ will further complicate matters, making it more difficult to negotiate agreeable understandings and solutions. Ultimately, due to these particular characteristics, this study concludes that when agreements are reached between the two players entangled in a protracted social conflict, it is as a result of coincidences of interest.

Goldsmith and Posner’s Framework

The four models of behavioral regularities outlined by Goldsmith and Posner are believed to capture the strategic interactions that emerge when states pursue the maximization of their self-interest in the international sphere. It is these four models that account for state behavior, rather than compliance from a sense of legal obligation. For this reason, Goldsmith and Posner argue that “the variety of phenomena traditionally labeled ‘international law’ are merely conventions of international politics best explained by reference to state power and state interests.”⁴⁶ According to the authors, it is some combination of these four models that explain the state behaviors associated with international law. However, they also conclude that although scholars often misapprehend coincidences of interests as compliance, “[much] of customary international law is simply coincidence of interest.”⁴⁷ These misunderstandings occur,

⁴⁵ For more, see Michelle Maiese, “Causes of Disputes and Conflicts,” *Beyond Intractability*. Last modified July, 2003, http://beyondintractability.colorado.edu/essay/underlying_causes/

⁴⁶ Jack Goldsmith and Eric Posner, *The Limits of International Law* (New York: Oxford University Press, 2005). Quoted in Oona A. Hathaway and Ariel N. Lavinbuk, “Rationalism and Revisionism in International Law,” *Harvard Law Review* 119, no. 5 (2006): 1416.

⁴⁷ Jack Goldsmith and Eric Posner, *The Limits of International Law* (New York: Oxford

because there is a failure to distinguish between a pattern of behavior and the motives behind such actions.⁴⁸

In *The Limits of International Law*, Goldsmith and Posner focus on multilateral treaties in the international arena. They primarily examine human rights and international trade in investigating state compliance to international law, in accordance to the four strategic situations discussed above. For the sake of this paper, however, Goldsmith and Posner's concept of 'international law' will be considered more comprehensive to take into account international institutions such as agreements and memorandums as well.

According to Goldsmith and Posner, actors are believed to behave "rationally to maximize their interests, given their perceptions of the interest of other states and the distribution of state power."⁴⁹ This is not new news in the field of international relations. Nevertheless, international relations theories alone have failed to sufficiently explicate behavioral regularities of international actors. Because this study deals with law compliance—in the form of peace agreements—it seems appropriate to combine international relations theory with international law perspectives to examine state actions in accordance with bilateral agreement compliance. Main questions dealt by Goldsmith and Posner are: does international law matter, or do states regularly violate it without paying the costs? If international law does not matter so much, why do states devote so much energy into negotiating treaties and providing legal defenses for their

University Press, 2005), 225.

⁴⁸ Goldsmith and Posner, *International Law*, 39.

⁴⁹ Ibid., 3. See also Jack Goldsmith and Eric Posner, "A Theory of Customary International Law," *The University of Chicago Law Review* 66 (1999): 1113-1177.

actions? On the other hand, if international law does indeed matter, does it reflect the interests of powerful states, why does it change so often and why are violations often left unpunished? In an attempt to provide answers to such questions, Goldsmith and Posner present a framework that challenges the traditional position of customary international law.

This book is distinguished from previous international law scholarships because of its rejection of the traditional belief based on legality, morality, *opinio juris*,⁵⁰ and related non-instrumental concepts of “compliance.” Accordingly, one of the main claims made by Goldsmith and Posner is that international actors have no moral obligation to comply with international law. In questioning the obligatory nature of compliance to international law according to *opinio juris*, this framework looks at international law compliance as a function of various rational choice models. The models proposed by the authors share the basic assumptions held by realist and neoliberal institutionalists in the field of international relations—rationality and self-interest. The four models of strategic behavior proposed by the authors, from a rationalist, interest-based perspective, are: coincidence of interest, coordination, cooperation and coercion.

The framework introduced by Goldsmith and Posner is appropriate in evaluating the Israeli-Palestinian peace process, because Goldsmith and Posner’s book holds important implications for debates regarding the role of international law in the

⁵⁰ The notion of legal obligation comes from *opinio juris*, which is “what distinguishes a state act done out of interest or comity from one that a state performs because it is required to do so by law” (Goldsmith and Posner, *International Law*, 23). In other words, here, *opinio juris* refers to the legal obligation felt by actors that guides them to act in accordance to international law.

foreign policy decisions of nations. In other words, this framework can help evaluate the legal role of peace agreements and the affect it has on the Israeli-Palestinian relationship. Therefore, by reconceptualizing the aforementioned international law framework, this study aims to provide answers for an essential international question regarding peace interactions between the Israelis and the Palestinians.

Coincidence of interest

The first model proposed by Goldsmith and Posner is *coincidence of interest*. It suggests that what may seem like a state acting in accordance with international law is actually an act of self-interest with no regard to its opponent's actions or interests. Goldsmith and Posner states that in this situation, "a behavioral regularity among states occurs simply because each state obtains private advantages from a particular action (which happens to be the same approach taken by the other side) irrespective of the action of the other."⁵¹

Table 1: Coincidence of Interest		
	Defect	Cooperate
Defect	-2, -2	-1, 2
Cooperation	2, -1	3, 3

Essentially, both parties gain significant payoffs when they end up choosing to cooperate regardless of their opponent's decision (see table 1⁵²). Even without considering the opponent's action, players gain the highest payoff due to coincidence of interest.

⁵¹ Goldsmith and Posner, *International Law*, 27.

⁵² Ibid.

According to this strategic situation, it is presumed that the Israelis and the Palestinians enter into an agreement because both parties have alternative gains to acquire by taking such action. The agreed upon provisions are thus insignificant to their overall interests. It can be assumed that these actions are considered ‘a small price’ rather than ‘concessions,’ because of the alternative gains that will be acquired as a result. In other words, the mere act of entering into an agreement would result in the privately pursued gains regardless of the other’s preferences. There are political scientists who believe that the strategic situation of ‘coincidence of interest’ is the reason it may seem as though states are complying with treaty regimes.⁵³ It is because the treaties, or in this case peace agreements, do not require actors to act differently from what they would do on their own. Ultimately, this means that the payoffs from ulterior motives are greater than the compromises made under the agreements.

Coordination

The second model, *coordination*, maintains that actors end up coordinating their actions, because they will end up in better situations, but are nevertheless indifferent to the rule that they apply in doing so. In other words, they are indifferent to which action is performed as long as they agree to do the same (see table 2⁵⁴).

⁵³ See Kenneth A. Oye, ed. *Cooperation Under Anarchy* (Princeton: Princeton University Press, 1986); Lisa Martin, *Coercive Cooperation: Explaining Multilateral Economic Sanctions* (Princeton: Princeton University Press, 1992); and George W. Downs, David Rocke, and Peter N. Barsoom, “Is the Good News about Compliance Good News for Cooperation?” *International Organization* 50, no. 3 (1996): 379.

⁵⁴ Goldsmith and Posner, “Theory of Customary International Law,” 32.

Table 2: Coordination		
	X	Y
Action X	3, 3	0, 0
Action Y	0, 0	3, 3

Essentially, players in this situation gain more by engaging in the same action as their opponent than when they do not. Hence, it is out of convenience and not of obligation that agreements are established. This strategic situation is similar to that of coincidence of interest in that the actors' interests converge. However, this model is different from the previous in that each party's move depends on the actions of the other. Coordination instances refer to repeated prisoner's dilemma situations as well as the "battle of the sexes"⁵⁵ game. This model entails two desirable equilibria—{X, X} and {Y, Y}⁵⁶—when both actors cooperate and when they both defect. For instance, assuming that player A knows that player B will engage in X, A will do better by also engaging in X than by engaging in Y. If, instead, player A knows that player B will engage in Y, player A will do better by engaging in Y rather than X. Therefore, a repeated prisoner's dilemma is also considered a type of coordination game. Another variation of the pure coordination game is the "battle of the sexes" game. This particular game "captures a situation where the players wish to coordinate their strategies but disagree on which strategy they prefer to coordinate."⁵⁷ Most importantly, both players "prefer coordinating on the other's preferred strategy to not coordinating."⁵⁸

⁵⁵ James D. Morrow, *Game Theory for Political Scientists* (Princeton: Princeton University Press, 1994).

⁵⁶ As opposed to {X,Y} or {Y,X}

⁵⁷ Morrow, *Game Theory*, 251.

⁵⁸ Ibid.

In a coordinated situation, equilibrium is always met. Morrow points out that even though actors can coordinate on a particular equilibrium by using a treaty, an actor “that prefers the other equilibrium has an incentive to undermine the treaty by deviating from it occasionally, in the hope of forcing the other states to switch to the preferred equilibrium outcome.”⁵⁹ In other words, the party that has less to gain in a particular equilibrium has incentive to defect in the hope that the other will switch to the alternative equilibrium as well.

Cooperation

The third model is *cooperation*, when “states reciprocally refrain from activities [that are detrimental to the other in some sense]...that would otherwise be in their immediate self-interest in order to reap larger medium- or long-term benefits”⁶⁰ in the future or to avoid costs. As long as both players resist the temptation to cheat (in the short-term), they can both receive relatively high payoffs over the long-term. In short, the highest payoff is attained when both parties cooperate (see table 3⁶¹).

Table 3: Cooperation		
	Defect	Cooperate
Defect	2, 2	4, 1
Cooperation	1, 4	3, 3

However, unlike the other models, if both players have individual incentives to

⁵⁹ Goldsmith and Posner, *International Law*, 34; See also Stephen Krasner, “Global Communications and National Power: Life on the Pareto Frontier,” *World Politics* 43, no. 3 (1991): 336.

⁶⁰ *Ibid.*, 12.

⁶¹ Goldsmith and Posner, “Theory of Customary International Law,” 30.

defect in a cooperation situation, they will do so, because of the higher payoffs.⁶²

This model is different from coordination, because while the former requires states to engage in symmetrical actions, cooperation entails a more complex process that may involve negotiating or bargaining to produce the desired gains. This model is depicted as a bilateral repeated prisoner's dilemma situation where if both parties expect to interact with each other over time, they will choose to cooperate in period $n + 1$. As long as neither party decided to "cheat" in period n , cooperation would continue. If one party did defect in period n , then the victim of the incident will not cooperate in period $n + 1$ or in any future period.

According to Goldsmith and Posner, in order for cooperation to occur over time, four conditions must be met. First, both parties must know what counts as cooperation and what counts as cheating. In reality, there are countless problems of ambiguity in a treaty that may require clarification for it to be effective; due to confusion of what counts as cooperation and what counts as cheating. Second, both parties must care about the future relative to the present. In other words, the discount rate should be relatively low in order for cooperation to occur. Third, both players must sense that the game will never end or will end only with very low probability. In this case, they must believe that the game will continue indefinitely. Fourth, the payoffs from defection must not be higher than the payoffs from cooperation. Because payoff rates may change over time, a sudden or unexpected change in payoffs may result in the failure of a relationship.

⁶² Niels Petersen, "Rational Choice or Deliberation?" 3.

Coercion

Lastly, the fourth model identified by Goldsmith and Posner is *coercion*. This is when a powerful state (or coalition of states) forces or threatens to force a weaker state to engage in acts that are contrary to their interests, which concurs with the interests of the former. In such cases, international law is considered epiphenomenal, because it simply reflects the interests of the greater power. A key point to keep in mind in this reasoning is that the cost of punishing the weaker party must be trivial. Put differently, the threat of punishment becomes most credible and effective when the cost of punishing is low. However, it is in the interest of the weaker party not to deviate, because the powerful actor would punish them if it did. Essentially, “[player] A becomes better off as a result of coercing [player] B, and B is better off than it would have been had it not responded as it did to the coercive acts or threatened acts.”⁶³ If A gains the most payoffs when B acts according to the interests of the former, A will impose a threat so as to obtain that payoff even if B would otherwise have gained greater payoff. Coercion would work in these circumstances, because the threat (coercion) would have altered the payoff structure. Ultimately, if an agreement between the Israelis and the Palestinians was signed in a strategic situation such as coercion, it would signify that there was reluctance on one or more sides and thus a likelihood of defection from the start.

Given the four strategic situations above, this study argues that agreements are reached as a result of coincidence of interest—particularly in protracted social conflicts

⁶³ Goldsmith and Posner, *International Law*, 29.

such as that of the Israelis and the Palestinians. More so than the arguments of structural realists and neoliberal institutionalists, ‘coincidence of interests’ returns to one of the most basic assumptions of traditional rationalists’ approach to international relations, that actors are most strongly motivated by their own self-interests. With no consideration of (mis)perceptions and opponent interests, this model shows that “behavioral regularities arise at an international level as a result of [actors] maximizing their interests.”⁶⁴ Since ‘coincidence of interest’ has the least degree of dependence on the opposing player, it pays the least attention to the actions of the opposing player and thus has complete autonomous authority in making decisions. Because self-interest is the key determinant in this scenario, it is likely that actors act on their own will regardless of mutual arrangements and understandings. This model reiterates that because international actors are not guided by ethical considerations, international law (treaties and other formalized agreements) do not effectively restrict the international activities of the players.

Peace settlements would not continue to be reached even when it has been repeatedly broken in the past if trust was built over time due to continued interactions, as the neoliberal institutionalists argue, or due to other factors such as state and military power that conforms to the pressuring of settlements as the realists assert. Coercion implies that the egoist concedes to the force of others due to certain calculations, while cooperation and coordination entails the *interdependent* nature of an egoist. These three situations entail a great deal of dependency on the ‘other’ entity. Knowing the nature of

⁶⁴ Goldsmith and Posner, *International Law*, 42.

what brings opposing actors together and identifying the real incentives behind settlements will greatly optimize the effects of an agreement.

Rather than postulating that the Israelis and the Palestinians conceded to the will of a greater power or that they genuinely desired a settlement of absolute gains through cooperation, there is greater explanatory power in claiming that it was, time and again, coincidence of interests that brought the Israelis and the Palestinians to the drawing boards. It is in protracted social conflicts as in the Israeli-Palestinian conflict, where room for compromise is the smallest and the actors are least affected by its opponent's interests and preferences that coincidence of interests comes to play as the sole deciding factor, which causes two fundamentally divergent players to establish "peace" agreements. It is in the realization of this that we are able to understand the real nature of the Israeli-Palestinian peace process.

HISTORY OF THE CONFLICT

The Beginning: Jews and Arabs in Palestine

The Israeli-Palestinian controversy is in the heart of a bigger conflict that has been ongoing for a longer period of time among multiple actors. It is for this reason that the Israeli-Palestinian conflict cannot be fully understood without viewing the Arab-Israeli conflict that began in the early 20th century.⁶⁵ The Jewish doctrine states that

⁶⁵ For a comprehensive account of the history of the conflict, see Mark Tessler, *A History of the Israeli-Palestinian Conflict* (Bloomington: Indiana University Press, 2009). Shorter accounts can be found in Everett Mendelsohn, *A Compassionate Peace: a Future for Israel, Palestine, and the Middle East* (New York: Hill and Wang, 1989); and Deborah J. Gerner, *One Land, Two Peoples: The Conflict over Palestine* (Boulder: Westview Press, 1994).

“God has granted His chosen people dominion over the Land of Israel, *Eretz Yisrael* (Land of Canaan).”⁶⁶ The will for Jews to return to and be sovereign in *Eretz Yisrael* was in the root of their existence. In addition, the emergence of Zionism as a mass political movement was a consequence of the outbreak of anti-Semitism in Europe. While that “promised land” was still ruled by the Ottoman Turks, Zionist land purchases and settlement began, dating back to the 1880s. With increased Jewish land purchases and immigration into the Ottoman Empire, the Arabs who resided in those areas saw this increasingly as an immigration problem; they had not yet developed a sense of threat from Zionism. However, between 1908 and 1914, “new political tendencies began to emerge among the Arabs of Palestine.”⁶⁷ As an aftermath of the Young Turks Revolution⁶⁸ of 1908, nationalist political activity increased among Arabs throughout the Ottoman Empire, giving way to Arab nationalism. As modern Jewish nationalism was a defensive response to the threat posed by the Europeans to their distinct identity, Palestinian nationalism can also be seen as a reaction to “a Zionist enterprise that threatened their national rights in Palestine.”⁶⁹ Signs of anti-Zionism also developed with changes in the Arab world. The Jewish problem was now not only seen in terms of economic competition, as initially feared, but also as a threat to the political aspirations of the Arab Palestinians. In the words of a notable Israeli scholar, “the Revolt of the

⁶⁶ Tessler, *Israeli-Palestinian Conflict*, 7.

⁶⁷ Ibid., 128.

⁶⁸ The Young Turks Revolution was a revolt where the Committee of Union and Progress (CUP) forced the Sultan to restore the constitution he had suspended in 1978. As a result, political life sprang up, allowing the formation of political groups, freedom for the press, and parliamentary elections. This encouraged pan-Ottoman inclinations, at least temporarily.

⁶⁹ Shlomo Ben-Ami, *Scars of War, Wounds of Peace*, 6.

Young Turks in July 1908 is to be viewed as the beginning of open Jewish-Arab conflict, as well as the cradle of the Arab national movement.”⁷⁰

Balfour Declaration and the British Mandate

Tension between Jews and Arabs in Palestine did not cause alarm for the Zionist officials based in Europe. Regarding such tension as “unnecessarily alarmist,”⁷¹ delegates of the Zionist Congresses held in 1911 and 1913 asserted that these Arab sentiments were not the opinion of the majority and hence should not be regarded as significant. In hoping to emphasize the capability of an Arab-Jewish cooperation in Palestine, Zionists pursuing diplomatic initiatives consoled the international society by downplaying anti-Zionist sentiments in Palestine as a minority movement. However, as the situation worsened in the Arab front, Zionists had to come to terms with the fact that Arab discontent of Jewish immigrants in Palestine had been greater than they had viewed it. In the years after World War I, Britain was with the Mandate for Palestine. The period following the awarding of the British Mandate for Palestine was marked by Arab discontent. As the flow of Jews increased in British Mandate Palestine, unrest also intensified in the Arab community. Strikes became common, with Palestinian riots killing Jews by the hundred, Palestinians dying at the hands of British police, and the Irgun Zvai Leumi⁷² attacking Palestinian and British forces with the aim of taking control of Palestine and Transjordan by force.

⁷⁰ Gershon Shafir. *Land, Labor and the Origins of the Israeli-Palestinian Conflict, 1992-1914* (Berkeley: University of California Press, 1996): 202.

⁷¹ Tessler, *Israeli-Palestinian Conflict*, 134.

⁷² Irgun Zvai Leumi (The National Military Organization in the Land of Israel) operated between 1931 and 1948 as a Zionist paramilitary group in Mandate Palestine.

In 1947, Britain handed over responsibility of the Zionist-Arab problem to the United Nations. In agreeing to accept the mandate, the UN set up a committee consisting of eleven members called the Special Committee on Palestine (UNSCOP). The committee recommended splitting the territory in two ways—a majority proposal and a minority proposal. While the Arab Higher Committee (AHC) rejected both proposals, the Jewish Agency agreed to the majority proposal where 56% of the land was given to the Jews and 43% to an Arab state.⁷³ However, the plan was never implemented due to an outbreak of violence in various Arab cities. Although the United Nations General Assembly endorsed and passed the partition resolution, Arabs started anti-Jewish riots and attacked Jews in many cities even outside of Palestine. By announcing its intention to terminate the mandate and make final withdrawals in May 15, 1948, the British no longer wanted to commit resources in Palestine so as to maintain order.⁷⁴ With May 15 approaching, the Zionists elected a provisional government consisting of thirteen people, headed by Ben Gurion as its prime minister and defense minister. One day before D-Day, the Israeli provisional government council gathered to declare independence. In pronouncing the establishment of the State of Israel in the land the United Nations had set aside for a Jewish state, the Zionists fulfilled their long-awaited vision. In the words of Shlomo Ben-Ami, the Jews “gained a vantage ground in the struggle for Palestine by being the first to supersede the comfortable inertia of self-delusion and realize the nature of the conflict as a bitter national struggle.”⁷⁵ Having recognized the new country,

⁷³ Tessler, *Israeli-Palestinian Conflict*, 259.

⁷⁴ *Ibid.*, 261.

⁷⁵ Ben-Ami, *Scars of War, Wounds of Peace*, 1.

United States President Truman further solidified the establishment of an Israeli state. Ultimately, the UNSCOP partition plan was not implemented in the sense that Israel was the only state declared independent in the territory. To the Palestinians, May 14 is remembered as “al-Nakba,” (the Catastrophe) when the State of Israel was established and when the Palestinian exodus of 1948 occurred.

The First Arab-Israeli War (1948)

Unwilling to acknowledge the establishment of the new state, Egypt, Jordan, Iraq, Lebanon, and Syria joined military forces to attack Israel on May 15. Known as the Arab-Israeli War, it was the first in a series of wars between the Arabs and the Israelis. Although they were surrounded by hostile powers on all sides, Israel prevailed in its first war as a country. While Egypt kept the Gaza Strip and Jordan took control of the area surrounding East Jerusalem, now known as the West Bank, the rest of the area under Israeli control when the armistice agreements were signed in 1949 became the new official boundaries of the State of Israel. Israel not only proved its military capability at this time, but gained international recognition as well by becoming a member of the United Nations.

The Israeli parliament passed the Law of Return in 1950, emphasizing further the Jewish character of the state.⁷⁶ It declares that every Jew, whether he/she migrated to the country before or after the law became effective and even those who were born in the country before the law be granted citizenship in the State of Israel. With regard to borders, Israel did not make a distinction between lands gained during the 1947-1948

⁷⁶ Tessler, *Israeli-Palestinian Conflict*, 273.

war and the lands given to them by the UN Partition Resolution. Furthermore, to the devastation of the Palestinians, the area of West Bank under the control of the Transjordanian army, which was a product of the first Arab-Israeli War, became annexed into the newly dubbed Hashemite Kingdom of Jordan. As their first acts, the new parliament of Jordan “composed of twenty representatives from the West Bank and twenty from the East Bank [...] [endorsed] ‘complete unity between the two sides of the Jordan and their union into one state, which is the Hashemite Kingdom of Jordan.’”⁷⁷ Moreover, King Abdullah of Jordan had decreed that the words “West Bank” and “East Bank” be used rather than “Palestine” and “Transjordan.” This action showed that “the king sought to make clear that there would be no separate Palestinian state.”⁷⁸ All in all, these developments brought an end to—at least in the imminent future—the anticipation of the “possibility that an independent Arab state would be established in Palestine.”⁷⁹

The June War (1967) and the October War (1973)

Although the Palestinian Arabs were not in the center of the Arab-Israeli conflict between 1948 and 1967, they slowly became the focus again with the creation of the Palestinian Liberation Organization (PLO). The PLO was a creation of Arab governments wanting to create an organization that essentially remained under its control, “in order to prevent existing guerrilla organizations from drawing the Arab

⁷⁷ Tessler, *Israeli-Palestinian Conflict*, 276.

⁷⁸ Benjamin Shwadran, *Jordan: A State of Tension* (New York: Council for Middle Eastern Affairs Press, 1959), 297, quoted in Mark Tessler, *Israeli-Palestinian Conflict* (Bloomington: Indiana University Press, 2009): 276.

⁷⁹ Tessler, *Israeli-Palestinian Conflict*, 276.

states into a war with Israel.”⁸⁰ Put simply, the creation of the PLO was not to aid the Palestinian Arabs in achieving self-determination, but to restrain its resistance movement and to manage the organization. However, there were other independent guerilla groups, such as Fatah, which were seen as more dissident and unmanageable by the Arab governments. Therefore, such organizations usually operated in secret. Nevertheless, Fatah, one of the larger and more active guerrilla groups was able to forge ties with the Syrian government during the early 1960s. Although Fatah was not strong enough to harm Israel on its own, they were able to contribute to unrest in Israel when occasionally reinforced by the Syrian military. Consequently, many Israelis were led to believe that the Syrians were “laying the foundation for a full-scale guerrilla war.”⁸¹ It was in such a backdrop that tensions in the region developed for the War of June in 1967—otherwise known as the Six Day War.

On June 5, the Israel Defense Forces (IDF) struck against its Arab neighbors—Egypt, Syria, and Jordan. Starting with the Egyptian front, the IDF captured Sinai and Gaza. They also charged into East Jerusalem and the West Bank in the Jordanian front. Lastly, the Israelis fought into the Syrian lands of Golan Heights. Within days, the Arab states agreed to ceasefire arrangements with Israel and the war came to an end. Because of the rapidity of the war and the devastating results of the conflict, the Arabs refer to this as the June War as opposed to the Six Day War. Not only was there a change in the territorial outline of the region, but the consequences and impact of the war of 1967

⁸⁰ Tessler, *Israeli-Palestinian Conflict*, 374.

⁸¹ *Ibid.*, 377.

remain to affect the region even today. Ultimately, now that Israel got a hold of the West Bank and Gaza, they had gained control of all the territory that had been allocated for both Jewish and Palestinian states according to the United Nations Partition Resolution of 1947. This not only had territorial implications, but also meant that there were thousands of Palestinian Arabs in those lands now under the administration of the Israeli military. Though there were several security concerns raised by the topographical aspects of the West Bank, it was also of strategic significance for Israel in the fact that it surrounded the Israeli capital of Jerusalem on three sides. Despite opposition from several foreign powers, Israel insisted that there would be “no return to the *status quo ante* so far as East Jerusalem was concerned.”⁸² On June 27, Israeli parliament, the Knesset, passed a legislation applying “Israeli law and administration ‘in any area of Palestine to be determined by decree,’”⁸³ in order to use its power to declare a unification of Jerusalem.

To resolve the above problem, the United Nations Security Council issued Resolution 242, initially known as Lord Caradon’s text. The resolution calls for “inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace which every state in the area can live in security.” Moreover, it demands the “withdrawal of Israeli armed forces from territories occupied in the recent conflict,” as well as calls for the “termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence

⁸² Tessler, *Israeli-Palestinian Conflict*, 404.

⁸³ Ibid.

of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.”⁸⁴ Despite the efforts of Resolution 242 to exchange land for peace, there was deadlock in the attempt to implement the resolution. Notwithstanding the Arab states’ adamant calls to apply Resolution 242 and pull out forces, Israel argued that the specifics of a withdrawal had not yet been achieved by noting the vagueness of the resolution.

While Israel and its neighboring Arab states were dealing with the impact of the June War, the Palestinian resistance movement built momentum to take back center-stage in the Middle Eastern political scene. Because Resolution 242 only focused on the immediate situation surrounding the June War, it “failed to address the circumstances of the Palestinian people, whose unfulfilled political aspirations remained at the core of the Arab-Israeli conflict.”⁸⁵ Therefore, starting by reorganizing the institution—primarily its ideology—the PLO took matters into their own hands. In doing so, the goal was to reestablish that the Arab-Israeli conflict is ultimately a struggle between Zionism and Palestinian nationalism.

PLO and groups under its umbrella, especially Fatah, began to establish a semi-autonomous operational zone in southern Lebanon in the fall of 1968. Since the Lebanese government had signed an armistice agreement with Israel in 1949—the reason it did not participate in the 1967 War and as a result was the only neighbor not to lose territory—it opposed PLO using its land as a base for attacks against Israel.

⁸⁴ U.N. Security Council, 22nd Year, “Resolution 242” 22 November 1997 (S/RES/242), Official Record, New York, 1967.

⁸⁵ Tessler, *Israeli-Palestinian Conflict*, 422.

Unfazed, Palestinian forces continued with its aggressions, which in return caused Israel to make retaliatory strikes entangling the Beirut government in the fight between the Palestinians and the Israelis.

Unlike other Arab states, Jordan granted its Palestinian refugees full and unconditional citizenship. However, series of grievances still concerned thousands of Palestinian refugees. Of the grievances, a significant objection had to do with “restrictions on political discourse and political activity,” intended to “suppress demonstrations of Palestinian nationalism.”⁸⁶ Such measures of suppression were put in place due to fears of anti-Hashemite protests and of potential challenges to the regime of King Hussein of Jordan. In an attempt to assassinate and overthrow the Hashemite power in 1970, the Palestinians launched what is now referred to as Black September. As a result of these actions, not only did the PLO fail at installing political autonomy and at changing “the very character of the Jordanian state,”⁸⁷ but was expelled from Jordan, into Lebanon.

On October 6, 1973, the day of Yom Kippur, the holiest day of the year for the Israelis, Egypt and Syria launched a surprise attack in the Sinai Peninsula and in the Golan Heights. This became known as the Yom Kippur War for the Israelis and the Ramadan War for the Arabs since it was launched on the month of fasting in the Islamic calendar (another name for it is the October War). While the Egyptians pushed IDF forces back into the peninsula in the south, the Syrians battled the Israeli army in the

⁸⁶ Tessler, *Israeli-Palestinian Conflict*, 459.

⁸⁷ *Ibid.*, 460.

Golan Heights from the north. Although combined forces of the Egyptian and Syrian armies reaped great success at the beginning, the IDF soon gathered composure and commenced victorious counterattacks on both fronts. Assistance from the U.S. in the form of military equipment played significantly to Israel's advantage in the later days of the October War. With the tables turned, Israelis rejected calls for a ceasefire and continued to pursue additional successes. By the time the war ended on October 24, Israel recaptured most of the Sinai from which it was forced out of in the beginning. Also, Israeli troops made it further into the land west of Sinai across the Suez Canal. The IDF not only retook control of the Golan Heights, but reached deeper into Syria, as well, moving well along eastward down the road to Damascus.

Initial settlement agreements were to be applied on a step-by-step basis by referring to the land-for-peace formula in UN Resolution 242. At the first agreement between Israel and Egypt signed in 1974, west Sinai, between the Mediterranean Sea and the Gulf of Suez, was to be divided into three territorial strips. While the land farthest to the west was to be controlled by Egypt, the one to the right was to remain under the limited forces of the Israelis. The middle strip was under the control of the UN forces as a buffer zone. A similar arrangement materialized between the Israelis and the Syrians as well. Furthermore, Syrian President Hafez al-Assad agreed to prevent Palestinian guerrilla forces from using Syria as a base to strike against Israel. At the second disengagement agreement between Israel and Egypt, the Israelis agreed to yet another withdrawal of IDF forces from more of the Sinai Peninsula. In return, the Egyptians agreed that nonmilitary cargoes from and to Israel would be allowed to go

through the Suez Canal. Moreover, the U.S. agreed to Israeli requests that Washington deny recognition or negotiation with the PLO unless the Palestinian forces recognize the Jewish state's right to exist in accepting UN Resolution 242.

Meanwhile, the Palestinians were undergoing a "highly successful diplomatic campaign aimed at securing international recognition."⁸⁸ These improved circumstances for the PLOs reached its peak in 1974 when Arafat was invited to give a speech at the UN General Assembly regarding the Palestinian question of the Middle East. With PLO's increasingly successful circumstances, international pressure intensified toward the Israelis, accordingly deepening international isolation of Israel. These events led up to dramatic changes in Israel's domestic politics in 1977. For the first time since its establishment, the parliamentary elections in Israel resulted in the victory of right-wing Likud, as opposed to the left leaning Labor Alignment. Likud's historical legacy rests on the ideology of territorial maximization and the refusal to compromise land; particularly with regard to the occupied territories of West Bank and Gaza. Amidst PLO's increased successes, it can be implied from the 1977 election that Israel's policy preferences had shifted to a more rightist, hard-line stance.

Israel was further able to check PLO's increasing popularity in another critical event provided by Egyptian president Anwar Sadat. For the first time, Sadat visited Israel in an official manner, proposing further normalization of their relationship as well as visions for sustainable peace in the future between the two states. Such were events that led to the 1979 signing of the Camp David Accords between President Sadat of

⁸⁸ Tessler, *Israeli-Palestinian Conflict*, 484.

Egypt and Prime Minister Menachem Begin of Israel, witnessed by U.S. President Jimmy Carter. At the Camp David Accords, Israel agreed to withdraw all of its forces from Sinai, returning the land to Egypt, in return for normalization of relations between Jerusalem and Cairo. Also, the U.S. promised to help pay for new bases in Israel's Negev Desert since the Israelis agreed to resign their military bases in Sinai.

The Camp David summit produced two documents. The first concluded a peace deal entailing the withdrawal of Israeli forces and the reestablishment of Egyptian sovereignty in Sinai within three years of signing the treaty. Ultimately, this ensured the security of both states and normalized relations between Jerusalem and Cairo. The second document that resulted from the Camp David talks was regarding the West Bank and Gaza. Although the first document was well-laid out, detailed and precise in formulating a process for arriving at a final situation, the second was no more than a guideline for how to advance in the times to come. The framework dealing with the West Bank and Gaza was “characterized by broad guidelines, deferred decisions” and the language was “amenable to differing interpretations”—which is precisely what transpired.⁸⁹ Egypt claimed that according to the Camp David accord, the Arab world expected the Israelis to “surrender” the occupied territories in exchange for Arab recognition of the Jewish state. The Israelis, on the other hand, argued that the Camp David accord said what it said, without additional implications. Furthermore, they clarified that Israeli officials at the summit agreed to participate in negotiations regarding the future of the occupied territories, but had not committed to any specific

⁸⁹ Tessler, *Israeli-Palestinian Conflict*, 512.

outcome. To these results, the “Palestinians articulated...that Israeli intransigence robbed the Camp David accords of any possible value as a formula for peace.”⁹⁰ To the dismay of the Jordanians and the Palestinians, Israeli intentions at Camp David were to normalize relations with Egypt and nothing more.

Rather, the Likud government set out to significantly increase the number of Israeli settlements in the West Bank. The Begin administration started to tighten its hold on the West Bank and Gaza in other ways too. For instance, it took control of large amounts of land, water resources, and deepened its foundations in areas such as transportation, communication, and various economic activities.⁹¹ These actions were taken to extend Israeli presence in the territories, as well as to link the West Bank and Gaza ever more closely with Israel. As Begin’s West Bank and Gaza aspirations grew larger, the political spit and spat also developed into more violent confrontations between the Israelis and the Palestinians.

The Lebanon War (1982-1985)

Outbursts of violence continued to escalate throughout the occupied territories as tensions rose between the Israelis and the Palestinians. Not only did discontent grow in the West Bank and Gaza, but the cycle of violence was spurred on by PLO influence in the territories. As part of the Likud government’s efforts to curb PLO influence in the West Bank and Gaza, the Israelis decided to attack PLO’s political military bases in Lebanon. After a year of mounting tensions and violent outbreaks, on June 6, 1982,

⁹⁰ Tessler, *Israeli-Palestinian Conflict*, 517.

⁹¹ *Ibid.*, 521.

Israeli troops entered Lebanon. Operation Peace for Galilee, as known by the Israelis, was a military success. Ultimately, although Israeli forces failed to capture or destroy PLO forces, they were successful in driving the PLO and Syrian forces out of Lebanon, into Tunis. Less successful was the Israeli government's intentions to damage the PLO's international legitimacy, which backfired. Although they had hoped to discredit the PLO from being a significant actor in the Middle Eastern political arena, as news of violence spread, the international community condemned Israel's actions in Lebanon.

The First Intifada (1987-1993)

With continued settlement growth and hard-line policies of the Israeli administration, tension and anger increased in the Palestinian society, giving rise to widespread demonstrations. These protests became known as the *intifada* ("shaking off"). Israeli military actions in the West Bank and Gaza, continued Israeli settlements, Israel's increasing control over water resources in the territories, and controversy regarding Jerusalem's al-Aqsa Mosque⁹² are some of the multiple disturbances and "manifestations of mounting tension"⁹³ that led to the outbreak of demonstrations known as the *intifada*. Led mostly by young Palestinians, the emerging attitude was that of assertiveness, determinacy and a sense of desperation. Although sometimes compared the 1936-1939 revolt, the *intifada* was fiercer in the sense that it was the fight of young Palestinians who sought freedom, tired of the occupation and the lack of political rights in the occupied territories.

⁹² The al-Aqsa Mosque in Jerusalem is the third-holiest Islamic shrine, located on the Temple Mount, the site of an ancient Israelite Temple.

⁹³ Tessler, *Israeli-Palestinian Conflict*, 681.

These protests were not only an obstacle for the State of Israel, but a threat to the PLO, who were losing their status as the representative or main player in the Palestinian resistance movement. Since the focus shifted away from the PLO based in Tunis to the *intifada* from within the occupied territories, the Palestinian National Council (PNC) gathered to take a new approach regarding the Palestinian problem. In 1988, the PNC voted to accept a “two-state” solution based on the UN Partition Resolution of 1947, renounced terrorism and called for a negotiated settlement based on the UN Resolution 242.

Another obstacle for the PLO that materialized was the creation of a local leadership structure known as the Unified National Leadership of the Uprising (UNLU). The UNLU remained underground for the most part and stayed outside the organizational umbrella of the PLO. The intention of the UNLU was not to create international support for the Palestinian cause, but to “bring direction and organization to the uprising in the territories.”⁹⁴ Moreover, Islamic groups played a role in mobilizing participation for the *intifada* as well. In particular, the Muslim Brotherhood, along with other Islamic organizations had gained potency in the occupied territories during the 1980s. Especially significant to the strengthening of the *intifada* was a new organization, better known by the name Hamas (*Harakat al-Muqawama al-Islamiyya*, the Islamic Resistance Movement). Hamas’s charter outlines its ideology, which clearly depicts its Islamic orientation and its uncompromising attitude toward the Israelis. More specifically, it declares that “Hamas regards nationalism as part and parcel of religious

⁹⁴ Tessler, *Israeli-Palestinian Conflict*, 692.

faith.”⁹⁵ It also states that “there is no solution to the Palestinian problem except by Jihad. The initiatives, proposals and International Conferences are but a waste of time, an exercise in futility.”⁹⁶ Therefore, it rejects all “so-called peaceful solutions” as “contrary to the beliefs of the Islamic Resistance Movement.”⁹⁷ Moreover, not only does the Charter express explicit distrust of the Jews, but articulates that “Palestine is an Islamic land [and] no portion of it may be ceded to Jews or other non-Muslims.”⁹⁸

In the midst of these developments, by the end of 1988 Arafat offered clarified assurances deemed acceptable to the U.S. with regard to the PLO’s acceptance of the UN Resolution 242 and Resolution 338.⁹⁹ Despite U.S. talks with the PLO, Israel refused to negotiate with the PLO and remained adamant about viewing them as a ‘terrorist organization.’ Moreover, Israel insisted that the PLO was not sincere about its assurances to recognize Israel and condemn terrorism. In fact, Prime Minister Yitzhak Shamir of Israel introduced an initiative of his own in 1989. He proposed that an election be held in the occupied territories in order to establish a Palestinian delegation that the Israeli government would negotiate with. These negotiations would ultimately produce a self-governing authority in the West Bank and Gaza during the interim period while additional talks take place regarding the final status of these territories.¹⁰⁰ The catch was that in order for such elections to take place, the *intifada* must come to an end

⁹⁵ Hamas, *The Charter of Allah: The Platform of the Islamic Resistance Movement (Hams)*, edited by Ahmed Yassin, 1998.

⁹⁶ Ibid.

⁹⁷ Ibid..

⁹⁸ Tessler, *Israeli-Palestinian Conflict*, 697.

⁹⁹ Resolution 338 was passed in 1973 by the United Nations Security Council calling for ceasefire in the Middle East and the implementation of Resolution 242.

¹⁰⁰ Tessler, *Israeli-Palestinian Conflict*, 730.

and order must be restored in the occupied territories. At this time, the Palestinians maintained that the Israelis' plan was unfeasible and that it was only a devious attempt to avert attention from PLO's peace proposal. The PLO insisted that violence will stop only when the Israeli government agrees to negotiate directly with the PLO concerning a solution for the territorial situation and mutual recognition. These were the circumstances in which the Madrid Summit was prepared for in 1991.

CASE ANALYSIS

An ongoing conflict between two distinct national identities has been the center of a regional struggle to achieve sustainable peace. After decades of protracted conflict, the Israelis and the Palestinians finally came the closest they ever have to reaching final status understandings. What resulted from these efforts were numerous agreements that tried time and again to implement what they had supposedly set out to achieve. Although Goldsmith and Posner mainly focus on multilateral treaties, this research will tackle the behavioral regularities of bilateral agreements. In order to empirically view that the Israelis and the Palestinians indeed acted in interest-seeking behavior when coming to a mutual agreement, a template consisting of Goldsmith and Posner's four strategic situations will be employed.

Unlike previous gatherings of Arab-Israeli meetings, the Madrid Summit prepared by U.S. Secretary of State James Baker achieved full attendance. The key to the summit's initial success of gathering the Israelis, Syrians, Lebanese and a joint Jordanian-Palestinian delegation was a result of a "unique configuration in the balance

of power”¹⁰¹ and the calculated motives of all parties. Apparently the alternative of refusing the summit co-sponsored by the U.S. and the USSR had greater potential costs than attending another round of futile efforts at Arab-Israeli negotiations. Ultimately, it was because of changes in the balance of power that negotiations were able to occur. Due to these shifts, parties were given new interests to engage in negotiations. However, it should be noted that the will to negotiate does not equate to having strong interests in conflict resolution. The purpose of the summit was to jumpstart a bilateral or multilateral negotiation forum for the attending parties. As a result of the summit, Israel attempted at negotiating bilateral peace treaties with both Syria and Jordan for the first time. Although Israel and Jordan ultimately reached a sustaining peace agreement, the Israeli-Syrian negotiations eventually fell apart without substantial results. The results of the Israeli-Palestinians negotiations, which did happen in the end, is not as clear cut as the other relationships.

This section will examine the numerous agreements produced throughout the period of the Oslo peace process. It aims to shed light on the fact that due to the conflict’s nature the two actors continued to enter /agreements in spite of constant distrust and disappointments from the past. In other words, because of coincidence of interest depicted in short-term strategic and domestic political interests, they were able to continue coming together to form agreements even though they had doubts and reservations regarding their opponent’s likelihood to comply with the agreement

¹⁰¹ Laura Zittrain Eisenberg and Neil Caplan, *Negotiating Arab-Israeli Peace: Patterns, Problems, Possibilities* (Bloomington: Indiana University Press, 1998): 77.

provisions.

Declaration of Principles (September 1993)

Officially called the Declaration of Principles on Interim Self-Government Arrangements (or Declaration of Principles), the first Oslo Accord was signed on September 13, 1993. It was the first agreement signed between the government of Israel and the Palestine Liberation Organization. Although Israel initially refused to negotiate directly with the PLO during the Madrid Summit, due to limitations of conferring with non-PLO officials, the Israelis underwent secret negotiations with the Palestinians in Oslo, Norway. Incidentally, the Palestinian delegates actually negotiating with the Israelis at Madrid were not given much authority by the PLO.¹⁰² Some argue that Prime Minister Rabin ended up accepting the accord only after his preferred option of dealing with the Syrians and the local Palestinians failed.¹⁰³ The intention of the accord was to lay out a framework for future negotiations and relations between the two parties.

The most significant consequence of the accord was Israel's recognition of the PLO as the sole legitimate representative of the Palestinian people. Moreover, the Oslo Accord provided grounds for the creation of a Palestinian National Authority (PA). The accord stated that the PA would be empowered to have responsibility over administration of territory under its control—specifically Jericho and Gaza. However, it

¹⁰² William B. Quandt, *Peace Process: America Diplomacy and Arab-Israeli Conflict Since 1967* (Berkeley: University of California Press, 2005): 326.

¹⁰³ Jonathan Rynhold, "The Failure of the Oslo Process: Inherently Flawed or Flawed Implementation?" *Mideast Security and Policy Studies* 76 (2008): 3; See also Jonathan Rynhold, "Cultural Shift and Foreign Policy Change: Israel and the Making of the Oslo Accords," *Cooperation and Conflict* 42, no. 4 (2007): 419-440.

should be noted that the lands that Israel transferred control to PLO were extremely small in size, surrounded in all sides by Israeli towns, and full of economically troubled Palestinians.¹⁰⁴ The accord also called for the withdrawal of Israel Defense Forces (IDF) from parts of the Gaza Strip and the West Bank. Finally, Israel was to transfer powers and responsibilities to the Interim Palestinian self-government in stages.

As a follow-up treaty to the Oslo Accord, the Gaza-Jericho Agreement of May 1994 transferred limited “self-rule” of Gaza and Jericho to the Palestinians. The Palestinians were to assume administrative responsibility for Gaza and Jericho within the interim period of five years, while the IDF completed its withdrawal from these areas. Also, the creation of a Palestinian police force gave them responsibility of domestic security and public order, but external security, settlements, Israeli citizens, and foreign relations remained under Israeli jurisdiction.¹⁰⁵ Essentially, the document identified four major areas where authority be transferred to the PA: security arrangements, civil affairs, legal matters and economic relations. Unfortunately, little progress was made to implement the agreement. Subsequently, in August, the Early Empowerment Agreement, more formally known as the “Preparatory Transfer of Powers and Responsibilities in the West Bank,” followed the Gaza-Jericho Agreement. The Early Empowerment Agreement maintained that power be transferred to the PA in five specific spheres: education and culture, social welfare, tourism, health, and taxation.

Although the Oslo Accord and its follow-up treaties may seem like the

¹⁰⁴ Quandt, *Peace Process*, 329.

¹⁰⁵ Tessler, *Israeli-Palestinian Conflict*, 760.

beginning of a substantial change in situations, it was actually a confluence of conditions that gave rise to such “groundbreaking” agreements. It was the effect of coincidence of interest, because each side ultimately gained private advantages from their actions. For the Palestinians, its most important goal was to gain recognition that the PLO is the sole representative of the Palestinian people. They also intended to force the issue of statehood as soon as possible, in order to please their constituents in the occupied territories. Arafat needed an agreement to conclude in order to win a personal comeback. Not only was the PLO suffering from the aftermaths of the Gulf War, but it was threatened by the growing existence of Hamas and other Islamist groups in the occupied territories. Having supported Iraq and its leader Saddam Hussein during the Gulf War, the PLO had managed to cutoff support from its important financial backers such as Saudi Arabia, Qatar and Kuwait. To make matters worse, the fall of the Soviet Union meant that the PLO would lose a substantial source of its diplomatic and military support.¹⁰⁶ Furthermore, with the effects of the *intifada* running low, there was nothing more that would attract the “same positive international media attention” for the Palestinian cause.¹⁰⁷

For the Israelis, they had initially agreed to attend the Madrid Summit in order to buy time and propose an interim agreement so as to calm the *intifada*.¹⁰⁸ Prime Minister Rabin, who had come into office in 1992, knew he would be judged by the way he handled the ongoing negotiations to produce results. He had just defeated Likud from

¹⁰⁶ Eisenberg and Caplan, *Negotiating Arab-Israeli Peace*, 107.

¹⁰⁷ Ibid., 77.

¹⁰⁸ Quandt, *Peace Process*, 326.

power and came into office in the background of protests in the occupied territories and the crisis in the Gulf. During his election campaign, Rabin had made promises to deliver a quick agreement with the Palestinians and to normalize relations with other Arab states.¹⁰⁹ However, with his troubled Labor coalition, Rabin's government had to come up with some tangible results from the peace process to make up for his domestic shortcomings. Also, because Iraq had used the Palestinian problem as an excuse for attacking Israel in 1991, the Israelis were convinced that the threat of Iran and Iraq using non-conventional weapons would subside once a peace process was in progress.¹¹⁰

These were the strategic interests of the Palestinians and the Israelis, respectively, which brought the two parties to the drawing table. These facts support the belief that coincidence of interest resulted in the formulation of peace agreements between Israel and Palestine. This implies that rather than the content of the agreement, it was the act of entering the accords that was more significant for the signatories.

The Oslo Agreement was not a result of actors behaving in cooperation, coordination or coercion. Coordination situations suggest that if one party opts to enter an agreement, the other actor will engage in the same action. For instance, if Israel decides to enter an agreement, the PLO would do so as well. However, if Israel prefers to defect, the PLO would do the same, and vice versa (if the PLO chooses to enter/defect, Israel would do the same). But as explained above, this was not the case. Rather, both Israel and Palestine had clear interests in entering agreements. Thus the Oslo Agreement

¹⁰⁹ Eisenberg and Caplan, *Negotiating Arab-Israeli Peace*, 107.

¹¹⁰ Rynhold, "The Failure," 8.

could not have been a coordinated action between Israel and Palestine.

According to Goldsmith and Posner, true cooperation is when states *reciprocally* refrain from an act that they would have otherwise done in order to obtain self-interests, particularly if the action can potentially harm their opponent. Because the Oslo Accord postponed the negotiation of the most difficult issues, such as the border of the Palestinian state, the Israeli settlements, the status of Jerusalem, the division of water resources, and the refugee problem, Israelis were not required to make changes to their current settlements.¹¹¹ In other words, under the Oslo Accord, Israeli settlements were not required to be removed and settlement expansions or the building of new complexes were not banned. This point is further articulated by Haydar Abd al-Shafi, a Palestinian critic, in referring to the Gaza-Jericho Agreement. He criticizes that “Israel had not promised to withdraw from the occupied territories at the end of the transitional period.” Also, “the agreement did not require an end to Israeli settlement activity.” Ultimately, he identifies that the accord “is phrased in terms of generalities that leave room for wide interpretations.”¹¹² This would not only make the end goal of a Palestinian state more difficult, but goes against the essence of the Oslo agreement. This, however, can also be seen as the silver-lining of the Oslo Accords. Rynhold suggests that the advantage of the agreement was that it postponed the need for clear answers concerning core permanent status issues. Palestine had received Israel’s word for withdrawal from several cities, while the Israelis received the buying time they had sought. In addition, it was a chance

¹¹¹ Jerome Slater, “What Went Wrong? The Collapse of the Israeli-Palestinian Peace Process,” *Political Science Quarterly* 116, no. 2 (2001): 177.

¹¹² Tessler, *Israeli-Palestinian Conflict*, 762; See also Naseer Aruri, *Honest Broker: The U.S. Role in Israel and Palestine* (Cambridge, MA: South End Press, 2003): 90.

for Israel to “test” Arafat’s intentions. It is said that Prime Minister Rabin had wanted to see if Arafat would indeed keep his promise to abandon terrorism and denounce the goal of destroying Israel.

Finally, with regard to the Early Empowerment Agreement, Israel would not have retained virtually all control of the West Bank if they had genuinely intended to cooperate. The provisions of the Early Empowerment Agreement, according to Aruri, relegated the PA to “a mere functionary apparatus,” given “secondary” authority, but ultimately maneuvering under the existing Israeli jurisdiction.¹¹³ This agreement differed from the Gaza-Jericho Agreement in that while in the Gaza-Jericho Agreement Israel essentially maintained control of external security and somewhat internal security as well, in the Early Empowerment Agreement, Israel “[retained] control over *all* types of security and keeps all responsibility for public order” in West Bank. Furthermore, “under the new agreement, the PNA [did] not have any police functions or powers relating to criminal matters in any of the spheres affected by the agreement.”¹¹⁴ Ultimately, the PA would have no control over law enforcement in regard to the five spheres mentioned above. Not only were there no substantive changes to the status of the West Bank, but full implementation of what the treaty called for have yet to be fulfilled. Again, if indeed steps for a final Palestinian sovereignty were the intent of the peace process, this agreement would not have been reached.

Furthermore, because the Oslo process was neither designed nor pressured by

¹¹³ Naseer Aruri, “Early Empowerment: The Burden Not the Responsibility,” *Journal of Palestine Studies* 24, no. 2 (1995): 34.

¹¹⁴ *Ibid.*, 33.

the U.S., there was less reason for either of the parties to turn to the Americans at times of dispute. This, however, illustrates that not only was the Oslo process not coerced by the U.S., but the two parties were able to enter into an agreement without pressure from the U.S.—even though it was a result of ulterior motives. In *Making Peace with the PLO*, David Makovsky states that “Arafat went to Oslo precisely because he knew he could not obtain a better deal by relying on Washington to “deliver” Israel.”¹¹⁵ Even though Israeli and Palestinian delegates had met in Washington, there were no substantial results emanating from the talks; which is why the Israeli government and the PLO turned to secret negotiations in Norway. Therefore, unless relations with the U.S. are in the self-interest agenda of players, it is unlikely that U.S. pressures would significantly influence their actions.

Oslo Interim Agreement (September 1995)

Two years after the Oslo Agreement, an agreement that incorporated and superseded previous arrangements—the Gaza-Jericho Agreement, the Early Empowerment Agreement, and the Protocol on Further Transfer of Powers and Responsibilities—was drawn up. Officially known as the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, the Oslo II Accord was first signed in Taba, September 24, 1995, between Israel and the PLO and then again in Washington on September 28, witnessed by President Clinton, President Husni Mubarak, King Hussein, as well as representatives from Russia, Norway, and the European Union.

This agreement dealt with complex issues governing several aspects of the

¹¹⁵ David Makovsky, *Making Peace with the PLO*, (Boulder: Westview Press, 1996): 130.

occupied territories. Essentially, the accord included provisions regarding the details of Israeli military force redeployments and the transfer of power and responsibility to the PA. It also recognized, yet again, the eventual establishment of a Palestinian Interim Self-Government Authority (an elected Palestinian Council). More specifically, the West Bank and Gaza were divided into three zones. Under full Palestinian control were major towns that cumulated to about 3% of the territories. Another 24% of the territories, mostly surrounding towns, would fall under the control of Palestinian civilians, although remaining under Israeli jurisdiction regarding security matters. The remaining majority of the territories, including Israeli settlements, would remain under complete Israeli control. Essentially, although the Palestinians would have control over municipal services of their own people, Israel would still retain sovereignty over the land. This particular Interim Agreement of 1995 was also the basis for subsequent negotiations and agreements such as the Hebron Protocol in 1997 and the Wye River Memorandum of 1998.

Albeit the intention of taking small steps toward final status talks, the formation of further agreements was not necessary. Particularly since the Oslo II Accord was ultimately a re-establishment of the previous agreements. For both the Israelis and the Americans (peace in the Middle East was high on President Clinton's agenda) elections were right around the corner. Both Rabin and Clinton believed it would be "good politics to show [their constituencies] that the peace process was alive and well,"

before the elections.¹¹⁶ Particularly, since the peace process was Prime Minister Rabin's legacy, he wanted it to continue. However, he was torn over whether to make last efforts before the elections on the Syrian front or the Palestinian front. In the end, however, Rabin's interests converged with the PLO's self-interests. Rabin decided to carry out peace efforts with the Palestinians, thus "[setting] his course for reelection."¹¹⁷ Consequently, he temporarily folded his moves regarding the peace process with the Syrians until after his reelection. In addition, Israel was benefitting from the peace agreements in the international scene. Not only was Israel gaining diplomatic support, but expanding international investments, which brought in economic profits.¹¹⁸

The Palestinians, on the other hand, also had incentive to enter into this particular agreement. They too had to reassure their people that the peace process is the "fast lane" to their ultimate goal of Palestinian independence in all of West Bank and Gaza.¹¹⁹ Even though the Israelis had specifically stated that even after the withdrawal of its forces from certain areas, they will continue to have jurisdiction over both external and internal security and public order of all Israelis and Israeli settlements, this particular caveat was played down to the Palestinian public. For the Israelis, the agreement was merely a "guarantee for maximal security for its population both in Israel

¹¹⁶ Quandt, *Peace Process*, 334.

¹¹⁷ Ibid., 336.

¹¹⁸ Ziad Abu Zayyad, "The Middle East Peace Process—Where to Next?" In *Israeli-Palestinian Peace Process: Oslo and the Lessons of Failure—Perspectives, Predicaments, Prospects*, edited by Robert Rothstein, Moshe Maoz, and Khalil Shikaki (Eastbourne: Sussex Academic Press, 2004), 154, quoted in Mark Tessler, *A History of the Israeli-Palestinian Conflict* (Bloomington: Indiana University Press, 2009), 770.

¹¹⁹ Yoram Meital, *Peace in Tatters: Israel, Palestine, and the Middle East* (Boulder: Lynne Rienner Publishers, 2006): 41.

and the settlements.”¹²⁰ Even though the Israelis preferred not to and ultimately did not infer to the future of a Palestinian entity, the Palestinian leadership wanted to consider the agreement as a major “milestone” in the eventual accomplishment of its final goal. Although doubts and disappointments emerged while the implementation of the accords was dragged out, both the Israeli government and the PLO tried to emphasize the accomplishments of this period because of political and national considerations. In other words, it was the coincidental convergence of self-interests that became reason for both parties to enter yet another agreement.

As was the case in the first Oslo Agreement, the Oslo II Accord was signed as a result of self-interests formulating at the right time. Furthermore, both agreements were not products of true cooperation where the substance pointed at genuine peace between the two players or even as coordination when the two players organize their actions to match up. In the Israeli point of view, Rabin remained hard-line in his position regarding his intentions concerning the permanent status issues. First, he announced that there would be no return to the pre-1967 borders, which was what the Palestinian leadership had in mind for the final Palestinian entity. Second, Israel would maintain exclusive control over a united Jerusalem, including the Jewish settlements in East Jerusalem. However, this goes against the Palestinians’ desire to proclaim al-Quds (Arab: East Jerusalem) as its capital. Moreover, settlements in the West Bank and Gaza would remain unmoved under Israeli sovereignty.¹²¹ Third, “free access to and military control

¹²⁰ Meital, *Peace in Tatters*, 43.

¹²¹ Slater, “Collapse of the Peace Process,” 177.

over the settlements would be assured by a series of new roads to be built throughout the territories.”¹²² In spite of this statement, Palestinians found themselves being exploited by the Israelis who were supposedly fulfilling the stipulation. One of the main complaints reported by the Palestinians was that the Israelis confiscated Arab land “for the construction of bypass roads.”¹²³ Instead of facilitating Palestinian access in the settlements, it seemed as if Rabin had ensured the further expansion of Israeli settlements. Evidently, “these roads enabled Israelis to travel to and from settlements without passing through the areas from which the IDF was withdrawing.”¹²⁴ Consequently, because the new roads in the West Bank connected all the settlements to each other, it made it virtually impossible for the Palestinians to unite a continuing piece of land.¹²⁵ What this means is that the end picture is a series of isolated Palestinian settlement islands surrounded by a sea of Israeli settlements and military bases. Lastly, in a speech to the Israeli Parliamentary body, the Knesset, Rabin asserted that while Israel would keep its settlements and military bases in the Jordan River, they will give Palestinians an “entity” that would become “home to most of the Palestinian residents living in the Gaza Strip and the West Bank.” Ultimately, in regard to this “entity,” he stated, “We would like this to be...less than a state.”¹²⁶ Even though Rabin had instigated the peace process in Israel, he remained quite opposed to a final settlement of

¹²² Slater, “Collapse of the Peace Process,” 177.

¹²³ Tessler, *Israeli-Palestinian Conflict*, 775.

¹²⁴ Ibid.

¹²⁵ Edward W. Said, *The End of the Peace Process* (New York: Pantheon Books, 2000): 16.

¹²⁶ Yitzhak Rabin, Speech to Knesset, printed in *Report on Israeli Settlement in the Occupied Territories 1995*, 5, quoted in Jerome Slater, “What Went Wrong? The Collapse of the Israeli-Palestinian Peace Process,” *Political Science Quarterly* 116, no. 2 (2001): 177.

coexistence with the Palestinians. If he had indeed aimed for a genuine peace treaty, he would not have maintained such an uncompromising and assertive position regarding a Palestinian entity.

Furthermore, the limited implementation of redeployments and transfer of responsibilities ultimately resulted in the isolation of Palestinian towns surrounded by Israeli settlements and military bases. Under Rabin's administration, it is said that Israeli settlements grew more than it had under the previous right-wing Likud government. While the actual number of settlements did not grow significantly in the occupied territories, between 1993 and 1996 the "number of Israelis living in these settlements increased by almost 40 percent."¹²⁷ In its report for 1995, the Palestinian Academic Society for the Study of International Affairs (PASSIA) stated that the "continued expansion of the settler population and of new settlement construction around Jerusalem was 'a serious cause for concern and a violation of the Oslo Agreement.'"¹²⁸ Inevitably, as a result of such Israeli actions, many Palestinians began to question Israel's intentions in entering agreements. Palestinians began to reckon that the Israelis were "not negotiating in good faith[,] but was rather using the Oslo process to buy time to expand and solidify its presence in the occupied territories, and in this way to predetermine the outcome of the final status negotiations."¹²⁹

These Palestinian sentiments were supported by numerous surveys conducted by the Center for Palestine Research and Studies. In a representative survey of

¹²⁷ Tessler, *Israeli-Palestinian Conflict*, 771.

¹²⁸ *Ibid.*, 775.

¹²⁹ *Ibid.*, 771.

Palestinians in the West Bank and Gaza in July of 1995, 81 percent of the Palestinians that responded said that they did not trust Israel's intentions with regard to the peace process.¹³⁰ In another survey conducted by the center in February found that 81 percent of the respondents favored withdrawing from talks with Israel unless settlement activities stopped.¹³¹ The inconvenient reality of Israeli actions caused most Palestinians to doubt Israel's intentions for entering into agreements; many had come to the conclusion that of the numerous reasons Israel chose to continue efforts in undertaking peace agreements with the Palestinians, "peace" was not on the agenda.

As with the Israelis, they too were disturbed by the fact that the PA had failed to put a stop to attacks. This belief is the most significant reason not even half of the respondents in Ahher Arian's survey in May 1996 agreed to the notion that the Palestinians wanted peace. Although most attacks were carried out by Hamas and other Islamist movements, many Israelis "questioned the commitment of the [Palestinian] Authority's security forces to preventing such attacks."¹³² Rather, there were those who believed that Arafat's negotiation position was enhanced by the fact that there was third party violence in Palestine.¹³³ In other words, Hamas' resort to violence was believed to be used in PLO's advantage in pushing the Israelis out of Gaza.

While the Palestinians believed that Israel was disregarding its need to stop settlement expansions, the Israelis viewed the Palestinians as "systematically ignoring the arms limitations of the agreements." Israelis believed that instead of preparing for an

¹³⁰ Tessler, *Israeli-Palestinian Conflict*, 771.

¹³¹ *Ibid.*, 776.

¹³² *Ibid.*, 778.

¹³³ Makovsky, *Making Peace with the PLO*, 140.

environment of coexistence, the PA was actually provoking its public. Put simply, “most Israelis felt the PA was at least giving a ‘green light’ to extremist groups to carry out such attacks, in order to increase pressure on Israel.”¹³⁴ These were the conditions in which the next agreement was entered into. Also, this was the backdrop to which Binyamin Netanyahu became Prime Minister on May 29, 1996.

Hebron Protocol (January 1997)

Both Prime Minister Rabin and Prime Minister Peres—who took over the Israeli leadership after Rabin’s assassination—had already agreed to withdraw its forces from most of the city of Hebron. However, with elections coming up, Peres had postponed its implementation. With right-wing Netanyahu in office, the new Prime Minister, who had always opposed the Oslo deal stated that although Israel was “obligated to respect the agreements” already signed, “these agreements were to be implemented in only the most narrow and technical sense, to whatever degree was unavoidable and with whatever resistance and delay a careful reading of the accords would permit.”¹³⁵

The Hebron agreement differed from previous accords between Israel and the PLO in that a small community of mostly right-wing enthusiasts who were associated with a movement that was committed to and encouraged the establishment of Jewish settlements in the West Bank, Gaza, and the Golan Heights settled in part of the land

¹³⁴ Alan Dowty, *Israel/Palestine* (Cambridge, UK: Polity Press, 2005): 155.

¹³⁵ Tessler, *Israeli-Palestinian Conflict*, 783; also in Meital, *Peace in Tatters*, 46.

under discussion.¹³⁶ They lived within the boundaries of the city of Hebron, in close proximity to a religious site of Ibrahimi Mosque, or Tomb of the Patriarchs, as known to the Israelis. Because this community of Israelis was surrounded by Arab Palestinians, they required constant Israeli military protection.

The Hebron Protocol called for Israeli withdrawal from 80 percent of the city, while remaining in control of the 20 percent of land where the Jewish settlers as well as some Palestinians reside in. However, another distinctive feature of the Hebron Protocol was the inclusion of a “Note for the Record,” written in by the American special Middle East coordinator, Dennis Ross, under Netanyahu’s reluctance to commit to further withdrawals.¹³⁷ The note states that Israel would remain committed to the provisions outlined in the agreements ‘on the basis of reciprocity.’ In other words, as long as the Palestinians showed compliance on their part of the provisions, Israel would uphold theirs. Reciprocity and Israel’s security requirements were the main rhetoric emphasized by Netanyahu during his reign as Prime Minister. Essentially, by basing its responsibility to implement provisions on reciprocity, it became easier for Israel to terminate past and future agreements.

Even though it seemed as though Netanyahu gave up 80 percent of Hebron, he had actually succeeded in undermining the implementation of further deals by including the ‘note for record’ that additional Israeli moves will depend on the PA’s compliance to the agreements. By putting the weight of responsibility in complying with the

¹³⁶ Quandt, *Peace Process*, 346.

¹³⁷ Ibid.

agreements to the PA, Netanyahu “had a ready justification for Israel’s own failure or unwillingness to implement the agreed-upon timetable.”¹³⁸ In addition, by entering into the Hebron agreement, Netanyahu was successful at delaying further progress of the peace process without upsetting President Clinton’s efforts at making headway in his plans for the Middle East.

At this point, neither side had fully complied with all the details of the Oslo Accords. Israel had not only outstanding redeployment plans and disregarded calls to stop settlements, but had not released Palestinian prisoners as promised. As for the PLO, they had not made the formal revisions of the National Charter. Hence, “in theory, the reciprocity argument could be used to justify a suspension of the Oslo Accords by either side, but only Israel would stand to gain by doing so at this stage.”¹³⁹

To make matters worse, the PA leadership was at one of its lowest points. With Islamist movements—particularly Hamas— building momentum more and more Palestinians began to view Arafat and his people as “a self-serving crew with narrow interests who had sold the Palestinians down the river.”¹⁴⁰ In the threat of Hamas’s rising popularity, particularly with their efforts at the grassroots level, Arafat was desperate to obtain meaningful concessions from the Israelis. Once again, Arafat turned to the peace process in an effort to boost his personal standing among the Palestinians, rather than to negotiate a sincere peace agreement. All in all, Israel’s interest to defy the Oslo Accords and delay implementation for the time being had coincided with PLO’s

¹³⁸ Tessler, *Israeli-Palestinian Conflict*, 786.

¹³⁹ Quandt, *Peace Process*, 347.

¹⁴⁰ Meital, *Peace in Tatters*, 45.

efforts improve its position among its constituents. Basically, while both the Israelis and the Palestinians were pursuing their own interests, their actions happened to coincide.

Wye River Memorandum (October 1998)

The Oslo process seemed to be coming to an end with no further movement on the peace front during the rest of 1997 and in the first part of 1998. However, the leadership on either side of the agreements was not quite over utilizing the Oslo talks to advance their own private interests. The time of expiration of five years for the interim period and the implementation of the Oslo Accords had come and gone. Even though previous agreements were left unsettled by either party, the two sides got together yet again to devise another understanding. In 1998, Clinton went through lengths to get Netanyahu and Arafat back at the drawing table. In the end, they produced the Wye River Memorandum, which essentially dealt with further redeployments, security, and economic issues. While the Palestinians agreed to take further steps on security and retract once again parts of the National Charter that challenged Israel's right to exist, the Israelis consented to make additional withdrawals from Zones B and C. Evidently, Netanyahu had initially agreed to withdraw from Zones B and C that totaled to at least 13 percent of the West Bank and Gaza. In the end, however, the understandings and goals of this agreement remain un-implemented.

At first, the Israelis did pullback from a small portion of area in the northern West Bank and gave control over to the Palestinians. However, after this phase was complete, Netanyahu was reluctant to go further. He argued that the Palestinians must

first comply to its security provisions before he made more concessions.¹⁴¹ Soon after, problems regarding Israeli release of Palestinian prisoners became an issue. There was public debate in Israel concerning the release of prisoners with “blood on their hands,” while the Palestinians protested that of those who had been discharged were petty criminals rather than the political prisoners they had demanded the liberation of.¹⁴²

By December of 1998, the Wye Agreement stalled, producing nothing but debate in both societies. Having lost the support of his own right-wing cabinet and facing further domestic problems, Netanyahu unilaterally suspended the implementation of the Wye River Agreement and “[called] new elections for mid-May 1999, conveniently just past the date of expiration of the Oslo Accord and the date by which Arafat had threatened to declare unilaterally a Palestinian state.”¹⁴³ These actions by Netanyahu can be summed up to imply that he had not intended to implement the Wye River Memorandum or any other previous outstanding agreements. Why then had Netanyahu agreed to the Wye River Memorandum in the first place? Throughout his time in office, Netanyahu’s main goal was to disrupt the implementation of the Oslo process. “Playing havoc with implementation schedules, adopting unilateral decisions, and exploiting the Palestinian leadership’s inability to stanch violence and terror,”¹⁴⁴ as well as emphasizing “reciprocation” of compliance to accomplish these actions, Netanyahu pulled off what he had set out to do during his time as Prime Minister. In entering these agreements under such provisions, he not only undermined the Oslo

¹⁴¹ Quandt, *Peace Process*, 355.

¹⁴² Meital, *Peace in Tatters*, 39.

¹⁴³ Quandt, *Peace Process*, 356.

¹⁴⁴ Meital, *Peace in Tatters*, 49.

process, but the PLO as well. Many Palestinians had now come to the conclusion that this was Netanyahu's delaying tactic and method to avoid making compromises that are actually necessary for peace.¹⁴⁵

The incentive of the Palestinians, on the other hand, was for the improved relations with the U.S. that was promised by President Clinton.¹⁴⁶ As part of signing the Wye River Agreement, Clinton promised Arafat that he would visit Gaza, once their part of the deal was fulfilled. Threatened by the increased popularity of Islamist groups, particularly Hamas, and their grassroots efforts, the PLO felt that they were in the weakest possible position with regard to their own constituents in the territories. They believed that enhanced ties with the U.S. would give them an advantage in their home grounds.

Against Netanyahu's unilateral decision to suspend the implementation of the Wye River agreement, Arafat threatened to declare Palestinian statehood on May 4, 1999. Subsequently, Netanyahu responded by threatening to annex the Israeli-controlled areas of the West Bank if a Palestinian state is declared. The resulting confrontation between Netanyahu and Arafat came as a concern to President Clinton, who worried that Netanyahu could possibly use this situation to his political advantage in the coming Israeli elections. Accordingly, the U.S., with the added weight of the Europeans, made an effort to cajole Arafat and promised him that the U.S. would "push for a final-status agreement within a reasonable period of time."¹⁴⁷ As far as cooperation goes, Arafat had

¹⁴⁵ Tessler, *Israeli-Palestinian Conflict*, 786.

¹⁴⁶ Quandt, *Peace Process*, 355.

¹⁴⁷ *Ibid.*, 358.

refrained from declaring a Palestinian state, which would otherwise have been in his immediate self-interest, in order to reap larger benefits with the Americans in the future. This attitude of cooperation can clearly be seen as different from those that developed between the Palestinians and the Israelis.

Sharm el-Sheikh Memorandum (September 1999)

With Ehud Barak as the new Israeli leader, Ehud and Arafat met at Sharm el-Sheikh, Egypt on September 4, 1999 to sign the Sharm el-Sheikh Memorandum. The Memorandum on Implementation Timeline of Outstanding Commitments of Agreements Signed and the Resumption of Permanent Status Negotiations was overseen by Secretary of State Madeleine Albright, President Bill Clinton, and signed by Prime Minister Ehud Barak of Israel and Chairman Yasser Arafat of the PLO. The purpose of this memorandum was to put into operation the Oslo II agreement of 1995 and to realize all other unimplemented agreements between the PLO and the Israelis since 1993. The most ambitious provision of the Sharm el-Sheikh Memorandum was regarding the negotiations of final status issues and the problem of permanent resolution of the conflict.

At this point, President Clinton was eager to make lasting changes in the Middle East as his presidential legacy. As Labor party's Barak as the new Israeli Prime Minister, Clinton tried his best to appease Barak's preferences in seeking an agreement. Therefore, it was America's appeasement of Barak's inclinations rather than American pressure or coercion that brought Barak back to the table to negotiate an agreement with

Arafat. Barak, who “was known” to be “not a great fan of [the] Oslo [process],”¹⁴⁸ made it clear to Clinton that his foremost priority was to revive the peace process on the Syrian front.¹⁴⁹ Therefore, while negotiations were in progress with regard to the Sharm al-Sheikh agreement, discretely, the Americans and the Israelis were also simultaneously working toward the revival of Syrian-Israeli talks. Pertaining to the ongoing Israeli-Palestinian talks, Barak expressed that he would hold back the redeployment plans agreed upon in the Wye River Memorandum. It was not in the interest of Barak’s personal career to risk political capital that he might need for an overall agreement, should they come to it. Furthermore, in conveying his reservations for continuing peace talks with the Palestinians, Barak got out of Clinton promises of more military support.¹⁵⁰

Arafat’s weakened position in the occupied territories further compelled the PLO to continue trying to acquire concessions from the Israelis. All throughout the 1990s, the PLO leadership conducted direct talks with Israel. Even after the PA was established and a council elected, Arafat and the Israeli leadership had continued to sign the agreements in respect to the PLO. For instance, the Sharm el-Sheikh Memorandum begins with the words: “The Government of the state of Israel (GOI) and the Palestine Liberation Organization (PLO) commit themselves to...” It has been Arafat and his camp that had been in the center of the Oslo process while the local leadership in the occupied territories was assigned to the backseat. Thus, as tensions inevitably

¹⁴⁸ Quandt, *Peace Process*, 360.

¹⁴⁹ Ibid., 362.

¹⁵⁰ Ibid., 360.

accumulated between the leadership within the territories—who strengthened their position in the territories since the first intifada—and Arafat from the “outside”¹⁵¹ the PLO had yet further self-interests to fulfill in entering another agreement with the Israelis. With Arafat’s “political base of support [...] fading,”¹⁵² in order to restore his authority, Arafat needed to show the Palestinian public that Israeli troops were indeed withdrawing from the agreed areas called for in previous agreements.

CONCLUSION

This study analyzed the Israeli-Palestinian peace process of the 1990s to argue that agreements were fulfilled as a result of coincidence of interest. Both the Israeli government and the PLO ended up obtaining private advantages from self-interested actions, all the while remaining indifferent to the rules they applied in the process of doing so. In fact, historically, Zionists and Palestinian Arabs have come together for futile encounters with ulterior motives in mind, rather than in a pursuit for peaceful accommodations.¹⁵³ In Goldsmith and Posner’s framework, such behavior falls under the category of coincidence of interest.

In the case analysis of this study, it was illustrated that agreements were not formed as a result of true cooperation, strategic coordination or coercion. Cooperation would have occurred when both sides reciprocally gave up immediate self-interests for long-term considerations. However, we saw that long-term considerations were not accounted for in the provisions. Moreover, mirroring an opponent’s action in order to

¹⁵¹ Meital, *Peace in Tatters*, 39.

¹⁵² Quandt, *Peace Process*, 362.

¹⁵³ Eisenberg and Caplan, *Negotiating Peace*, 105.

gain high payoffs, as seen in coordination, did not occur. If coordination had occurred, an agreement would have been reached even if one of the players did not have self-interests in engaging in the action. In addition, sufficient instances have been seen where the pressure or coercion of powerful states did not materialize in the signing of an agreement. Rather, players who had the upper-hand in either facilitating or negotiating the peace process were more likely to use a form of appeasement to cajole concerning parties to come to an understanding.

Follow-up agreements that attempted to reestablish efforts to implement outstanding settlements have also continued to fail. If events had gone according to what the realists argue, both the Israelis and the Palestinians would have given into the will of the more powerful—in this case America or even Egypt (who brokered and witnessed many of the signings). Especially since the international community—particularly the U.S. and Europe—would have guided actors into the direction of negotiating a common ground and implementing agreed upon arrangements, it would make sense that the ‘weaker’ Israel and Palestine concede to the bidding of other more powerful international actors. In fact, the fundamental weakness in the agreements signed during the Oslo peace process was that they were perceived as non-binding agreements. Put simply, the perception that the agreements were non-binding gave less incentive for the signatories to actually carry out the provisions. Essentially, the costs they would have to pay in defecting from the agreements were considered insignificant.

On the other hand, if neoliberal institutionalism can in fact explicate cooperation or coordination, the Israeli-Palestinian conflict should have been resolved.

Continued interactions failed to produce successful opportunities for cooperation, where actors would pursue absolute gains resulting from the formation of agreements. Because the agreements failed to promote trust between the actors, incentives to defect were not reduced. In fact, continued defections and failure of implementation lead to the decrease of trust between the two players, if there was any to begin with. According to neoliberal institutionalists, defection on one side should lead to a subsequent defection by the other. However, ironically, both sides continued to come back to the negotiation table in the Israeli-Palestinian peace process.

This study argues that when two actors entangled in a protracted social conflict come to an agreed upon settlement, it is merely a result of coincidence of interest. Since the Israelis and the Palestinians both had self-interests that would be fulfilled in the act of entering an agreement, they had more to gain by engaging in such understandings than defecting from the opportunity. Ultimately, the act of independently pursuing their own interests aligned the two players to engage in actions that produced the phenomena of belligerents cooperating. Applied to the conflict of Israel and Palestine, the strategic situation of coincidence of interest implies that the two actors did not have genuine desires to achieve peace, but that the settlements were merely instruments used to pursue their own self-interests.

This conclusion further suggests an unpromising prospect in the Israeli-Palestinian conflict in that genuine cooperation is unlikely to be achieved in a protracted social conflict. There are possibly two ways this can be modified. First, the negotiation process of formulating an agreement should take the form of binding arbitration

brokered by a third party. Adjudication led by a third party can become highly effective in brokering agreements when and if the engagement becomes binding. Second, in order to reach a resolution, the protracted and social nature of the conflict must change. Once the disposition of the conflict moves on to being no longer a protracted social conflict, resolution may become achievable. The best approach may be to focus on resolving the fundamental problems between the two entities first, rather than channeling futile efforts at making trivial changes.

BIBLIOGRAPHY

- Agha, Hussein and Robert Malley. "Camp David: The Tragedy of Errors." *New York Review of Books* August 9 (2001): 59-64.
- Alchian, Armen and Harold Demsetz. "Production, Information Costs, and Economic Organization." *American Economic Review* 62, no. 5 (1972): 777-795.
- Aruri, Naseer. "Early Empowerment: The Burden Not the Responsibility." *Journal of Palestine Studies* 24, no. 2 (1995): 33-39.
- _____. *Honest Broker: The U.S. Role in Israel and Palestine*. Cambridge, MA: South End Press, 2003.
- Axelrod, Robert. *The Evolution of Cooperation*. New York: Basic Books, 1984.
- Azar, Edward E. *The Management of Protracted Social Conflict: Theory and Cases*. Sudbury: Dartmouth Publishing, 1990.
- Azar, Edward, Paul Jureidini, and Ronald McLaurin. "Protracted Social Conflict: Theory and Practice in the Middle East." *Journal of Palestine Studies* 29, no. 1 (1978): 41-60.
- Bar-Tal, Daniel. *Shared Beliefs in a Society*. Thousand Oaks, CA: Sage Publications, 2000.
- Beilin, Yossi. *Madrich le-Yona Petzu'a* [Manual for a Wounded Dove]. Tel Aviv: Yedioth Ahronot, 2001.
- Ben-Ami, Shlomo. *Scars of War, Wounds of Peace*. New York: Oxford University Press, 2006.
- Brubaker, Rogers and David Laitin. "Ethnic and Nationalist Violence." *Annual Review*

- of Sociology* 24 (1998): 423-452.
- Bruner, Jerome. *Acts of Meaning*. Cambridge, MA: Harvard University Press, 1990.
- Coase, Ronald. "The Problem of Social Cost." *Journal of Law and Economics* 3, no.1 (1960): 1-44.
- Devine-Wright Patrick. "History and Identity in Northern Ireland: An Exploratory Investigation of the Role of Historical Commemorations in the Contexts of Intergroup Conflict." *Peace and Conflict: Journal of Peace Psychology* 7, no. 4 (2001): 297-316.
- Downs, George W., David Rocke, and Peter N. Barsoom. "Is the Good News about Compliance Good News for Cooperation?" *International Organization* 50, no. 3 (1996): 379.
- Dowty, Alan. *Israel/Palestine*. Cambridge, UK: Polity Press, 2005.
- Eisenberg, Laura Zittrain and Neil Caplan. *Negotiating Arab-Israeli Peace: Patterns, Problems, Possibilities*. Bloomington: Indiana University Press, 1998.
- Fisher, Roger and William Ury. *Getting to Yes: Negotiating Agreement Without Giving In*. New York: Penguin Books, 1983.
- Galtung, Johan. *Peace by Peaceful Means: Peace and Conflict, Development and Civilization*. Thousand Oaks: Sage Publications, 1996.
- _____. *Transcend and Transform: an Introduction to Conflict Work*. Boulder: Paradigm Publishers, 2004.
- Gerner, Deborah J. *One Land, Two Peoples: The Conflict over Palestine*. Boulder: Westview Press, 1994.

- Gilpin, Robert. *War and Change in World Politics*. New York: Cambridge University Press, 1983.
- Goldsmith, Jack and Eric Posner. "A Theory of Customary International Law." *The University of Chicago Law Review* 66 (1999): 1113-1177.
- _____. *The Limits of International Law*. New York: Oxford University Press, 2005.
- Gurr, Ted. *Why Men Rebel*. Princeton: Princeton University Press, 1970.
- Hamas. *The Charter of Allah: The Platform of the Islamic Resistance Movement (Hamas)*, edited by Ahmed Yassin, 1988.
- Hathaway, Oona A. and Ariel N. Levinson. "Rationalism and Revisionism in International Law." *Harvard Law Review* 119, no. 5 (2006): 1404-1443.
- Henkin, Louis. "How Nations Behave: Law and Foreign Policy." Published for the Council on Foreign Relations. New York: Columbia University Press, 1979.
- Kelman, Herbert C. "The Political Psychology of the Israeli-Palestinian Conflict: How Can We Overcome the Barriers to a Negotiated Solution?" *Political Psychology* 8, no. 3 (1987): 347-363.
- Krasner, Stephen. *International Regimes*. Ithaca: Cornell University Press, 1983.
- _____. "Global Communications and National Power: Life on the Pareto Frontier." *World Politics* 43, no. 3 (1991): 336-366.
- Kriesberg, Louis. "Negotiating the Partition of Palestine and Evolving Israeli-Palestinian Relations." *Brown Journal of World Affairs* 7 (2000): 63-80.
- Kupermintz, Haggai and Gavriel Salomon. "Lessons to be Learned from Research on

- Peace Education in the Context of Intractable Conflict.” *Theory into Practice* 44, no. 4 (2005): 293-302.
- Lustick, Ian. “The Oslo Agreement as an Obstacle to Peace.” *Journal of Palestine Studies* 27, no. 1 (1997): 61-66.
- Maiese, Michelle. “Causes of Disputes and Conflicts.” *Beyond Intractability*. Last modified July, 2003. http://www.beyondintractability.org/biessay/underlying_causes/
- Makovsky, David. *Making Peace with the PLO: The Rabin Government’s Road to the Oslo Accord*. Boulder: Westview Press, 1996.
- Martin, Lisa. *Coercive Cooperation: Explaining Multilateral Economic Sanctions*. Princeton: Princeton University Press, 1992.
- Mastanduno, Michael. “Preserving the Unipolar Moment: Realist Theories and U.S. Grand Strategy after the Cold War.” *International Security* 21, no. 4 (1997): 49-88.
- Meital, Yoram. *Peace in Tatters: Israel, Palestine, and the Middle East*. Boulder: Lynne Rienner Publishers, 2005.
- Mendelsohn, Everett. *A Compassionate Peace: a Future for Israel, Palestine, and the Middle East*. New York: Hill and Wang, 1989.
- Morrow, James D. *Game Theory for Political Scientists*. Princeton: Princeton University Press, 1994.
- Newman, Edward and Oliver Richmond eds., *Challenges to Peacebuilding: Managing Spoilers During Conflict Resolution*. Tokyo: United Nations University Press,

2006.

North, Douglass. *Institutions, Institutional Change and Economic Performance*. New York: Cambridge University Press, 1990.

Oye, Kenneth A. ed. *Cooperation under Anarchy*. Princeton: Princeton University Press, 1986.

Pearlman, Wendy. "Spoiling Inside and Out: Internal Political Contestation and the Middle East Peace Process." *International Security* 33, no. 3 (2009): 79-109.

Petersen, Niels. "Rational Choice or Deliberation? Customary International Law between Coordination and Constitutionalization." *Journal of Institutional and Theoretical Economics* 165, no. 1 (2009): 71-85.

Posen, Barry. "The Security Dilemma and Ethnic Conflict." *Survival* 35, no. 1 (1993): 27-47.

Pundak, Ron. "From Oslo to Taba: What Went Wrong?" *Survival* 43, no. 3 (2001): 427-460.

Quandt, William B. *Peace Process: American Diplomacy and Arab-Israeli Conflict Since 1967*. Berkeley: University of California Press, 2005.

Rabin, Yitzhak. Speech at Knesset. Printed in *Report on Israeli Settlement in the Occupied Territories, 1995*, 5. Quoted in Jerome Slater, "What Went Wrong? The Collapse of the Israeli-Palestinian Peace Process." *Political Science Quarterly* 116, no. 2 (2001).

Roe, Micheál and Ed Cairns, eds. *The Role of Memory in Ethnic Conflict*. New York: Palgrave Macmillan, 2003.

- Rothman, Jay and Marie L. Olson. "From Interests to Identities: Towards a New Emphasis in Interactive Conflict Resolution." *Journal of Peace Research* 38, no. 3 (2001): 289-305.
- Rouhana, Nadim N. and Daniel Bar-Tal. "Psychological Dynamics of Intractable Ethnonational Conflicts: The Israeli-Palestinian Case." *American Sociologist* 53, no. 7 (1998): 761-770.
- Rynhold, Jonathan. "Cultural Shift and Foreign Policy Change: Israel and the Making of the Oslo Accords." *Cooperation and Conflict* 42, no. 4 (2007): 419-440.
- _____. "The Failure of the Oslo Process: Inherently Flawed or Flawed Implementation?" *Mideast Security and Policy Studies* 76 (2008): 1-26.
- Said, Edward W. *The End of the Peace Process*. New York: Pantheon Books, 2000.
- Sayigh, Yezid. "Arafat and the Anatomy of Revolt." *Survival* 43, no. 3 (2001): 47-60.
- Schelling, Thomas. *The Strategy of Conflict*. Cambridge, MA: Harvard University Press, 1981.
- Shafir, Gershon. *Land, Labor and the Origins of the Israeli-Palestinian Conflict, 1882-1914*. Berkeley: University of California Press, 1996.
- Shapiro, Daniel L. "Supplemental Joint Brainstorming: Navigating Past the Perils of Traditional Bargaining." *Negotiation Journal* 16, no. 4 (2000): 409-419.
- Shikaki, Khalil. "Palestinians Divided." *Foreign Affairs* 81, no. 1 (2002): 89-105.
- Shwadran, Benjamin. *Jordan: A State of Tension*, 297. New York: Council for Middle Eastern Affairs Press, 1959. Quoted in Mark Tessler, *A History of the Israeli-Palestinian Conflict* (Bloomington: Indiana University Press, 2009), 276.

- Slater, Jerome. "What Went Wrong? The Collapse of the Israeli-Palestinian Peace Process." *Political Science Quarterly* 116, no. 2 (2001): 171-199.
- Slaughter Burley, Anne-Marie. "International Law and International Relations Theory: A Dual Agenda." *The American Journal of International Law* 87, no. 2 (1993): 205-239.
- Steinberg, Gerald. *Unripeness and Conflict Management: Re-Examining the Oslo Process and its Lessons*. Occasional Paper no. 4. Ramat Gan: Center for Conflict Management, Bar Ilan University, 2002.
- Susskind, Lawrence and Jeffrey Cruikshank. *Breaking the Impasse*. New York: Basic Books, 1998.
- Tajfel, H. and Turner, J. C. "The Social Identity Theory of Intergroup Behavior." In *Psychology of Intergroup Relations*, edited by S. Worchel and W. G. Austin, 7-24. Chicago: Nelson-Hall, 1986.
- Tessler, Mark. *A History of the Israeli-Palestinian Conflict*. Bloomington: Indiana University Press, 2009.
- U.N. Security Council. 22nd Year. "Resolution 242" 22 November 1967. (S/RES/242). Official Record. New York, 1967.
- Waltz, Kenneth. *Theory of International Politics*. Reading: Addison-Wesley, 1979.
- Watson, Geoffrey R. *The Oslo Accords: International Law and the Israeli-Palestinian Peace Agreements*. Oxford: Oxford University Press, 2000.
- Williamson, Oliver. "Transaction-Cost Economics: The Governance of Contractual Relations." *Journal of Law and Economics* 22, no. 2 (1979): 233-261.

Zayyad, Ziad Abu. "The Middle East Peace Process—Where to Next?" In *Israeli-Palestinian Peace Process*. Robert Rothstein, Moshe Maoz, and Khalil Shikaki eds. (Eastbourne: Sussex Academic Press, 2004). Quoted in Mark Tessler, *A History of the Israeli-Palestinian Conflict* (Bloomington: Indiana University Press, 2009), 770.

국문초록

이익의 우연적 일치로 인한 합의 형성

서울대학교 정치학과 대학원
양서진

본 논문의 목적은 이스라엘과 팔레스타인 간의 평화 협정을 대상으로, 과거의 반복되는 협정의 불이행에도 불구하고, 그들이 왜 평화 협정을 계속해서 시도하는지를 분석하는 것이다. 이스라엘과 팔레스타인 사이에 가장 많은 평화 협정이 존재했던 시기인 1990년대에 맺어진 다섯 개의 협정들을 사례로 연구를 진행할 것이다.

이 연구는 이스라엘-팔레스타인 분쟁이 “고질화된 사회분쟁(protracted social conflict)”의 특성을 가지고 있다고 전제한다. 고질화된 사회분쟁은, 시작은 있으나 갑작스러운 종결이 없고, 잠재적인 갈등과 현시적인 폭력 사이를 지속적으로 순환하며 장기화 경향을 띠는 특징을 가진다. 또한 갈등의 여파가 국가와 사회의 모든 영역에 미치는 여파가 작지 않으며, 현상유지를 추구하는 균형 세력들이 사회 내부에 존재한다. 이러한 분쟁은 행위자의 행위가 상대방의 압박 등 외부적인 요인이 아니라 스스로의 내부적 고려에 의해서만 결정된다는 특성을 가진다. 이 경우, 행위자들은 평화협정 체결 이상의 다른 이익이 존재하지 않는 경우, 협정에 참여하지 않는다.

논문에서 사용하는 분석틀은 국제법과 국제정치를 결합하여 보는

Jack Goldsmith와 Eric Posner의 분석틀이다. 이 분석틀은 행위자가 이익 극대화라는 요인에 의해 그들의 행동 규칙들을 만들어낸다는 데 기초를 두고 있다. 이들은 4가지 전략적 행위들을 소개함으로써 행위자들이 국제법을 준수하는 것처럼 보이는 이유를 적절하게 설명해 주고 있다. 이들이 제시하는 4가지 전략적 상황들에는, 이익의 우연적 일치 (coincidence of interest), 조정 (coordination), 협력 (cooperation), 그리고 강압 (coercion) 이 있다. 이 네 가지 전략적 상황 중에서 ‘이익의 우연적 일치’는 상대 행위자에게 가장 적게 의존하는 요소이기 때문에 더욱 독립적인 결정을 가능하게 한다. 따라서, 이스라엘-팔레스타인 분쟁과 같은 ‘고질화된 사회분쟁’에서는 타협의 여지가 가장 적고 상대방의 이익으로부터 가장 적은 영향을 받는 ‘이익의 우연적 일치’가 결정적인 요인이 될 수 있다.

이 연구를 통하여, 이스라엘과 팔레스타인 사이에 맺어진 평화 협정들이 그들이 마치 협력을 추구하는 것처럼 보이게 하지만, 사실 두 행위자의 협정 참여는 진정으로 평화를 위한 것이 아닌 자신들의 이익 추구의 결과임을 알 수 있다.

주요어: 이스라엘-팔레스타인 분쟁, 오슬로 평화과정, 고질화된 사회분쟁, 국제정치, 국제법

학 번: 2010-22705